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THE
General History
OF
ENGLAND,
BOTH
Ecclesiastical and Civil:
Containing the REIGN of
RICHARD II.

Taken from the most Antient *Records*,
Manuscripts, and *Printed Historians*.

WITH
An *APPENDIX*,

Being a Brief and Impartial Disquisition into that Great
Question, *Whether the Commons of England had ever any
other Representatives in Parliament, than the Tenants in Capite,
before the 49th of Henry the Third?*

Wherein all the Arguments that have been Publish'd in several
Treatises on this Subject, are fairly Represented; Together
with such Answers and Replies as can be given to them.

The Second Part of Volume III.

By *JAMES TYRRELL* Esq;

L O N D O N:

Printed for *W. Rogers*, in *Fleetstreet*; *J. Taylor*, in *St. Paul's
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T H E
General History
O F
E N G L A N D
B O T H

Ecclesiastical and Civil,

VOL. III. BOOK XII.

Containing the Reign of King
Richard II.

WHEN King *Edward* the Third Deceased, (as you have already heard) He immediately was succeeded by his Grandson the Prince of *Wales*, by the Name of King *Richard* the Second, then in the Eleventh Year of his Age, not only (as it is said in my Author) by *Hereditary Right*, but by the general Wishes, and Consents of the People, who had an extreme kindness and value for Him, in respect of Prince *Edward* his Father, whose Memory was, for his great Vertues, most dear to the Nation; and it was upon the Old Stock of Merit, that He for a long time maintained himself in the People's Affections, though he acted not as became the Royal Lineage from which he was descended; for whether, through the too great Indulgence of an over-fond Mother, or his own Natural wilful Temper, which was too much complied with by those who had the care of his Education, is hard to be determined; but he fell into that Misfortune of many young Princes of great Hopes, who coming to the supreme Command, before they know what it is to Obey, will observe no other Rules besides their own obstinate Humours; so that as his Government was much disturbed by popular Insurrections, and rendered unsuccessful, by the jarring Councils and ill Management of his Governors, during his Minority; so, when he came to take the Reins of the Government into his own Hands, and was grown of full Age, he acted as if he had been still a *Minor*, being govern'd more by his own

Anno Dom. 1377.
King *Edward* is succeeded by Prince *Richard*, not only by an Hereditary Right, but the general Consent of the People, whose Affection to his Father continued to him for a great while, notwithstanding his exorbitant Actions.

Vol. III. P p p p p Passions

Anno Dom. 1377. Passions, than by Law, Reason, or sound Advice, as you will find in the whole Course of this Reign; however, at present, no Prince could ever ascend the Throne with greater Hopes, nor be received with a more general Satisfaction.

[2] *T. W.*
The Citizens of London apply themselves to the young Prince and his Mother, desiring their Protection and Mediation, with the Duke of Lancaster.

[2] But I cannot omit taking notice of a Passage, which indeed properly belonged to the last Reign, yet because it had so near a Relation to this, I thought fit to insert it here; and that is, That on the very day of King *Edward's* Death, (however before he expired) there were some of the chief Citizens sent by the City of *London* to the young Prince then at *Kennington* with his Mother, who by *John Philpot*, (their Mouth) acquainted him, that since his Grand-father was now departing, having the manifest Signs of Death upon him, they beseeched his Highness's Favour to, and Protection of the Citizens and City of *LONDON* (which was his Chamber) being unspeakably disturbed, that he was so far from them; for they were not only ready to venture their Estates, but also, if need were, to lay down their Lives for him; and therefore they besought him, that he would come and reside there; and further pray'd him, to vouchsafe to put an end to all Discords and Differences, between the Citizens and the Duke of *Lancaster*.

[3.] *Id. ib.*
The *Ld. Latimer*, with others, are sent to the City to assure them of the King's Favour; and that they should submit all Differences between the Duke & them to the King.

In return to the said Message, [3.] on the Morrow after the Decease of the late King, the Lord *Latimer*, Sir *Nicholas Bond*, Sir *Simon Burley*, and Sir *Richard Adderbury*, Knights, were sent to the City of *London*, to assure them on the King's Behalf of his Kindness to their City, and speedy Return to it, and Residence there, according to their Request; and they did further let them know, that the King himself had, in Answer to their late Address, already spoke for them to the Duke of *Lancaster*, who had submitted all Differences between himself and the Citizens, to the King's Pleasure; and he therefore hoped, that if they would agree to do so likewise, a firm Reconciliation might soon be made up between them and the Duke his Uncle; but it seems, the Citizens were more terrified than pleased with this Message, and would not submit to it, knowing the King to be but little more than a Child, and not able to Patronize or Defend them, if he would; so that their Cause was like to be heard and discussed, before, as well as Sentence given, by their greatest and most powerful Adversaries, if they should submit to his Proposal: But at last, after a long Debate, they came to this Issue; That if the Persons who brought the Message would oblige themselves to the Citizens, that their Submission should not prove prejudicial, or bring any Damage to them or their City, they would then as willingly acquiesce in his Majesty's Determination, as the Duke himself.

Which they at last accept of on condition.

[4.] *Id. ib.*
The Messengers give the King and his Uncle an Account of their Negotiation with the City.

[4.] This Security being thus given, and accepted of by both Parties, the Messengers return'd to the King, whom they found at *Sheen*, with the Princess his Mother, and the Duke of *Lancaster*, and the rest of his Uncles, together with some Bishops, who attended the Corps of the Deceased King; and there the Lord *Latimer*, and the rest of them that were sent, gave an Account of what had been transacted with the Citizens, and advised the King to endeavour a speedy and just Reconciliation between them and the Duke, since they found them willing to submit to his Majesty's Pleasure, in whatever should appear just and reasonable for them to do.

Vol. III.

[5] This

[5.] This being Perform'd, and the King mounted on a stately Courser, and attended by the Duke of *Lancaster* (then Lord High-Steward of the Kingdom) and the Lord *Piercy* Earl-Marshall, with many other Lords and Knights, He took his way towards *London*, Sir *Simon Burley* carrying the Sword before him, and Sir *Nicholas Bonde* walking on Foot, led his Horse by the Bridle, being followed by many Persons of Quality, and Young Noblemen of the King's own Age, each Troop having Trumpets sounding before them: When they came to *Cheapside*, they were magnificently received, a stately Pageant in the shape of a Castle being erected in the middle of the Street, which ran with Wine all the while they passed by, part of which was served to the King and Nobility in Golden Cups, by four Beautiful Damsels about the King's Age, who also strewed Gilt Leaves and Flowers on his Head as he passed by; all the Noblemen, and especially the Duke of *Lancaster*, endeavouring all they could, by an extraordinary Affability, to gain the Good Will of the Common People; who receiving the King with great Joy and loud Acclamations, waited on him to his Palace at *Westminster*, where he took up his Residence.

Anno Dom
1377.

[5.] *Id. ib.*
The K. makes
his Entry into
London with
great State.

[1.] Then on *Thursday* the Sixteenth of *June*, the Ceremony of his Coronation was performed in the Abbey-Church adjoining, with great Pomp and Magnificence; the Particulars of which I pass over, only shall take notice of some Passages not before observed, or else alter'd since the Coronation of King *Richard I.* The Oath the Young King took before the Arch-Bishop of *Canterbury*, and all the Bishops and Lords there present, was somewhat larger than that already mentioned by our Historians, and consisted of these Articles: First, *That he would permit the Church to enjoy all her Liberties; That he would reverence her Ministers, and maintain the true Faith; That he would restrain Violence, and all Oppressions, in all sorts of Men; That he would cause good Laws to be every where observed, especially those of St. Edward, King and Confessor; and would also cause all evil Laws or Customs to be Abrogated: Lastly, That he would be no Respector of Persons, but would give Right Judgment between Man and Man, and would chiefly observe Mercy in all his Decrees or Judgments, as God should shew Mercy to him.* This deserves our Observation, because this Form of the Coronation-Oath, with some small Alterations, has been Administred to all succeeding Kings and Queens, ever since that Time.

[1.] *Id. id.*
The King is
Crown'd in
the Abbey-
Church with
great Magnifi-
cence.

The Form of
the Corona-
tion-Oath,
then taken by
the King, al-
most the same
with that ad-
ministred to
his Successors
ever since.

These things being performed, [2.] the Arch-Bishop led the King (the Lord-Marshall walking before him) to all the four sides of the Scaffold, and shewing the King to the People, declared the Purport of the Oath he had now taken, and asked them, *If they would be subject to this Prince, as their lawful Ruler, and be obedient to his Commands?* This Ceremony, tho' not mention'd before in any of our Historians, yet was no Innovation, but seems a Remainder of that Old *English* Custom of Electing the King, as any One that will compare the manner of the Election and Coronation of King *Edward the Confessor*, and *William I.* with this Action, may observe; and which hath been observed in all Coronations since that time.

[2.] *Id. ib.*
The King is
shewn to the
People, and
their Consent
ask'd, whether
he should rule
over them.

Then the King was carried back to his Throne, where having received the Royal Ensigns, viz. the Sword, Royal Robe, Bracelets, and Ring of Gold, the Crown was put upon his Head by the Arch-Bishop, with proper Prayers said by the Bishops, upon the King's receiving

The K. having
received the
rest of the
Royal Ensigns
the Crown is
put upon his
Head.

Anno Dom. 1377. each of those Particulars; then the Arch-Bishop stripping off his upper Garments, anointed him with Sanctified Oil, on the Head, Breast, Shoulders, and Joynts of his Arms, the whole Choir in the mean while singing as an Anthem, *Zadock the Priest Anointed King Solomon.*

[3.] *M. ib.*
The King returns to his Palace to dinner, with the manner of it.

[3.] Then, after the King and Arch-Bishop had Communicated of the Holy Eucharist, and that Mass was finished, the King return'd back to his Palace, in the same Order as he came; the Wardens of the *Cinque-Ports* (according to their Office) carrying a Canopy of blue Velvet over him, supported by Staves of Silver; being come into the Great Hall, the Dinner was served up with mighty Magnificence. It would be tedious to relate the several Services performed by divers Noblemen, Knights and Gentlemen, according to their several Tenures; only it was found to be the Right of the Lord-Mayor of *London*, being assisted by some select Citizens, to serve the King as Chief Cup-Bearer, and to have a Cup of Gold with a Gold Ear for his Fee; and it was at this Coronation, that I observe Sir *John Dimmock* was first admitted to serve as Champion to defend the King's Right to the Crown with his own Body, against any that should deny the same; but how long before, this Custom of a Champion had been in use, I do not find. Then the King created his Uncle, the Lord *Thomas of Woodstock*, Earl of *Buckingham*, with a Pension of a Thousand Marks; *Thomas Mowbray* Earl of *Nottingham*; and the Lord *Guischard D'Angouleme*, the King's Governor, was made Earl of *Huntington*, with the like Pension; and *Henry Lord Percy*, Lord Marshal, Earl of *Northumberland*.

He creates divers new Earls.

[4.] *M. ib.*
A solemn Procession for the peace of the Kingdom; at which the Bp. of *Rochester* preaches, with the effect of his Sermon.

(4) The next Day after the Coronation, there was a solemn Procession of the Arch Bishop, Bishops, and Abbots, with the Temporal Lords there present, attended by a great number of People, to pray for the King, and Peace of the Kingdom: Before this Procession the Bishop of *Rochester* preached, and made an excellent Discourse, exhorting the Auditory, that all Civil Dissentions that had risen of late between the People and their Superiors might now cease: He also admonished the Lords not to be so severe and hard to the ordinary People, or Commons; and then he likewise exhorted them all cheerfully in general, to contribute to the Aid of the King and Kingdom, whenever there was Occasion; and as for those that were appointed to be about the King's Person, that they should avoid all vicious Courses, and practice purity of Life and Vertue; for if by their Connivance, or bad Example, the King declin'd from the Right Way, both He and the People would be in danger of Ruin; and it had been very happy for both, if this Bishop's Advice had been followed as it ought. But, to come to things of another Nature.

The Kingdom being engaged in a War with *France*, at the Death of the late King, the *French* taking advantage of the unsettled Condition of the Realm, (5) within a Week after his Decease, landed at *Rye* with a considerable Fleet, and burnt that Town; whereupon, immediately after the Coronation, the Earls of *Cambridge* and *Buckingham* were sent to *Dover*, and the Earl of *Salisbury* and *Southampton*, with considerable Forces, to defend those Parts; but it seems there was no Fleet then ready to take the Seas, for on the (1) Twenty-first of *August* following, the *French*, with a great many Gallies, landed in the Isle of *Wight*, and burnt divers Towns there, and indeed took it all, except the Castle of *Caresbrook*; which being gallantly defended by

[5.] *Froissart.*
ib. C. 327.
The French come before *Rye* with a considerable Fleet, where they land and burn the Town.
[1] T. W.
3d June An.

by Sir *Hugh Tyrrell* the Governor, a Knight of *Essex*, they were repul-
 sed from thence with considerable Loss; yet he not being able to do
 more than defend that Place, the Inhabitants of the Isle were fain to
 pay the *French* a Thousand Marks, to save the rest of it from Plunder
 and Burning: Then they went to their Ships, and in their return home
 landed and burnt the Towns of *Hastings*, *Portsmouth*, *Dartmouth*, and
Plimouth, all along that Coast, yet with various Success; for when
 they landed in *Suffex*, the Prior of *Lewis* going against them, with
 some raw new-raised Men of the Country Militia, the *French* not
 only routed them, but killing about an Hundred of the *English*,
 carried away the Prior and two Knights Prisoners into *France*, but
 not without a considerable Loss of Men on their side; however,
 at *Winckesey* they did not meet with the like Success, the Place
 being valiantly defended by the Abbot of *Battle*, and the Neigh-
 bouring Gentry: So unsafe was *England* at this Time, when it had
 neither any Fleet to defend it self at Sea, nor regular Forces to
 oppose the Enemy by Land.

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They land also
 on the Isle,
 which they
 take, except
 the Castle,
 defended by
 Sir H. Tyrrell.
 The French
 land again, &
 burn *Hastings*,
Portsmouth, &
 other Towns
 upon the
 Coasts.
Winckesey de-
 fended by the
 Abbot of *Bat-
 tle*.

But to come to Civil Affairs; The King being but just past his
 Childhood, and not able to govern himself nor his Realm, (2) his
 Uncles, *John Duke of Lancaster*, and *Edmund Earl of Cambridge*,
 with divers other Noblemen, and some Bishops, were by a great
 Council of Peers appointed his Protectors, and to have the Admini-
 stration of the Government during his Minority; but the *Lambeth Ma-
 nuscript Chronicle* only says in general, That two Bishops, two Earls, two
 Barons, and two Baronets, with two of the most learned Justices or
 Judges, were by Order of the Lords and Community (by which I
 suppose he means the Parliament) appointed to govern the Kingdom
 during that time: But whoever they were, though at first they took
 some care of his Education; yet by degrees, I suppose to obtain his
 Favour, they let him have his own Will, and suffer'd those to be
 about his Person, who by loose Principles, and evil Example, cor-
 rupted his good Nature; and by giving him false Ideas of Glory,
 made him believe it consisted in an expensive riotous way of Living,
 and in bestowing Gifts and Honours on his Favourites, without any
 Discretion or Moderation.

The King's
 Uncle, with
 other Noble-
 men and Bps.
 appointed
 Governors of
 the King and
 Kingdom.

[2] *Holing-
 shed Chron. ad
 hunc An.*

But though the Kingdom seem'd to be govern'd by a Council of
 Noblemen and Bishops, (3) yet the Duke of *Lancaster* had for a
 time the greatest Share in publick Affairs; yet whether it was because
 he fear'd the Envy and Hatred of the Clergy and common People,
 who were already much incens'd against him, or that he thought
 his Advice not sufficiently follow'd; so that if any thing should hap-
 pen amiss, it might be laid to his Charge: He took leave of the
 Court for a time, and retired to the Castle of *Kenilsworth*, where he
 kept a Court like a great Prince; however, before his Departure,
 there were placed nearest about the King (by the Duke's Consent and
 Appointment) *William Courtney*, Bishop of *London*, (who was shortly
 after made Arch-Bishop of *Canterbury*) and *Edmund Mortimer*, Earl
 of *Marche*, because they were Persons of whom all Men had a good
 Opinion for their Worth and Vertue; but the Lord *Latimer* and
 Bishop of *Salisbury*, who were also named among them, being Men
 of a quite different Character, the People murmur'd at it; the Earl
 of *Northumberland* also resigned his Office of Lord-Marshal, and was
 succeeded by Sir *John D'Arundel*, Brother to the Earl of that Name.

[3] *Id. ib.*
 The Duke of
Lancaster, tho'
 he had at first
 the greatest
 share in pub-
 lick Affairs,
 yet takes oc-
 casion to retire
 from Court:
 A Council is
 by him ap-
 pointed to be
 about the K.

Ye

Anno Dom.

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* Rot. Claus.

1. Rich. 2.

M. 3. d. 15.

A Parliament
summoned 15
days after

Michaelmas.

† Rot. parl. 1.

Rich. 2. M. 1.

2. 3. et d. 15.

The Causes of
the Summonsdeclared by
the A. B. andSir R. L'Escepe,
who desire
their Advice.

* Ib. N. 12.

The Com-

mons prayed,

that certain

Lords might

be joyned

with them.

* Ib. N. 13.

The Names

of the Peers

named to be

sent unto 'em.

|| Ib. N.

The Duke of

Lancaster ex-

cused himself

from going to

the Commons

because he

had been de-

famed by

them.

Yet it seems the Duke's Recess from publick Business was not very long; for a Parliament being summoned about the middle of August, to meet Fifteen Days after Michaelmas, we find, * by the Writ of Summons, the Duke appeared at it; when the Estates of the Kingdom were assembled accordingly, the † Cause of Summons was declared by the Arch-Bishop of Canterbury; and further rehearsed by Sir Richard L'Escepe, which was to this effect; That the Commons would advise the King, by what most fittest Means His, and the Kingdom's Enemies might be resisted, and how the Expence of each Resistance was to be born, with the greatest Ease to the Subject, and Profit and Honour to the Kingdom.

Then * the Commons pray'd the King, that for the Difficulty of their Charge, (that is, the Declaration of Summons) and for the weakness of their Abilities, it would please his Majesty to let certain Prelates and Lords be joined with them, for their Aid and Assistance; to commune and treat with them in these weighty Affairs, for the more hasty and good dispatch of the Business wherewith they were charged, * viz. the King of Castile and Duke of Lancaster, the Bishops of London, Ely, Rochester, and Carlisle, the Earls of March, Arundel, Warwick, and Angus; the Lord Nevil, Henry and Sir Richard L'Escepe, and Sir Richard de Stafford, which was accordingly granted by the King in Parliament.

Then || the Duke of Lancaster immediately stood up, and falling upon his Knees before the King, humbly pray'd him to hear him a little in a weighty Cause, that concern'd himself; and then said, Though the Commons had chosen him for one of the Lords to commune with them of the said Matters, yet he desired his Majesty would please to excuse him, for that the Commons had spoken ill of him; and so ill, that he had committed manifest Treason, if their Report was true; which GOD forbid, being always careful not to do any such thing, as the Truth was notably known; and further added, That none of his Ancestors, either of one side or other, was ever a Traytor, but True and Loyal; and it was a very marvellous thing how he should deviate from the Line, for that he had more to lose than any other in the Kingdom; and further he said, That if any Man, of what Estate or Condition soever he was, should be so hardy, as to lay Treason, or other Disloyalty, to his Charge, or any thing done by him prejudicial to the Kingdom, he was ready to defend himself by his Body, or otherwise by Award of the King and Lords, as if he were the poorest Knight Bachelor of the Realm.

|| Ib. N. 14.
Whereupon,
the Prelates,
Lords and
Commons ac-
quitted him
from all blame
and Defama-
tion.

|| Whereupon the Prelates, and all the Lords. stood up, and with one Voice excused and prayed him to leave off such Discourse, for they thought no Man living would say any such thing: The Commons also said in their own Defence, it was apparent and notorious; that they thought him free from all Blame and Defamation, inasmuch as they had chosen him to be their principal Aider, Comforter and Counsellor in this Parliament; praying with one Voice to have them excused from all such Reports.

The Duke de-
sires that the
Inventer and
Spreaders of
such false Re-
ports be pu-
nished.

Then the Duke said, The Words had been long, though falsely, thrown about the Kingdom; and he wondered how any Man could, or would begin, or continue such Slanders for the Disgrace and Danger that might thence ensue; because the first Inventer of such Speeches,

by

by which Debate might be moved, between the King and Lords of *Anno Dom.*
the Land, was a manifest Traytor; since such Debates might turn to *1377.*
the Destruction of the Kingdom: And therefore prayed, that a good
Ordinance, and a just and speedy Punishment might be provided in
that Parliament, against such Spreaders and Inventers of evil Reports,
for the avoiding such Milchiefs for the time to come; but as for the
time past, all should be forgiven as to his own Person.

* And because the King was then young, and of tender Age, therefore, for
the Amendment of several Mischiefs, and the Preservation of the Realm,
which was at that time in greater Danger than ever before, the *Commons*
prayed the King and Lords of Parliament, for three things especially; *18.*

First, That they would, in that Parliament, appoint and name
Eight Persons of divers Estates, to be the continual Counsellors
of the King, for the Business of the Kingdom, together with the King's
Officers; and that they might be such Persons as best knew, and
most diligently would and could take Pains in the amendment of
the impending Mischiefs, and for the good Government and Preserva-
tion of the Realm; and that the Commons might know the Names
of those Counsellors, which also might be the Layers out and Direct-
ors of what Money was to be given towards the Wars. *The Commons pray the King and Lords for 3 things of great Moment.*

|| Secondly, That they would please to name and appoint in that
Parliament, such as should be about the King's Person, Men of vertu-
ous and honest Conversation, that might educate him accordingly;
and that the Charge of the King's House might be born with the Reve-
nue of the Crown, so that what was granted for the Wars might only
be employed that way. *17.*

|| Thirdly, That the Common Law, and other Statutes and Ordi-
nances of the Land, might be Observed, Ratified and Confirmed, and
the People Governed by them; and they might not be defeated by the
Conceitedness or Singularity of any about the King, &c. *18.*
saving in all things the Regalities and Dignity of the King, to which the Com-
mons would not that any prejudice should be done any way by their
Demands. *19.*

The || Answer to these Petitions was, That the Prelates and Lords
would advise together, commanding the Commons, in the mean while,
to return to their Place, and treat of their other Charges given to them
between that time and *Thursday* next, and then they should have an
Answer to their Requests. *20.*

The || first Request of the Commons being recited before the King
and Lords, was by them granted; yet so as the Chancellor, Treasur-
er, and Keeper of the Privy-Seal, Justices of one Bench and the other,
and all other Officers of the Realm, might execute their Offices, with-
out the presence of those Counsellors, who by Advice of the Lords
were then appointed, || being Nine in Number; viz. the Bishops of
London, Carlisle, and Salisbury, the Earls of March and Stafford, Sir
Richard de Stafford, and Sir Henry L'Escrepe, Banerets; Sir John
D'Everouse, and Sir Hugh Segrave, Bachelors. Which || Nine Prelates,
Earls and others, thus chosen in Council for this Year, were sworn
before the King himself, to do what they were chosen for, in the pre-
sence of divers Lords in Parliament. *21.*

As || to the Second Request, for the naming and assigning such as
should be about the King's Person, the Lords of Parliament an-
swered,
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The Answer of the King and Lords to the Petitions of the Commons.
|| *1b. 23.*
Nine Bishops and temporal Lords appointed to be of the King's Council.
|| *1b. 25.*

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The Lords do not think the second Request fit to be granted.

[1] *Ibm.*[2] *Ibm.*[3] *Ib. N. 27.*

The Lords and Commons grant the King a Tax for the defence of the Kingdom.

[4] *Ibm. 41. 42.*

Alice accused in Parliament for prosecuting Business at Court, and in what Particulars.

She denies the Accusation, and offers Witnesses to clear her.

swered, That it seemed to them for many Causes too heavy and hard a Request to place any Person about the King, that should not be acceptable to him; or to remove any Officer, or Servant, if it were not by his exprefs Will, and for some notable fault to be proved against such Officers and Servants; wherefore, the Lords would not willingly meddle with these Matters.

To [1] the other part of this Request, the Lords answered, that they would take good Deliberation, and speak with the great Officers of the King's Household about it, and if by their Advice it could be done, saving the State and Honour of the King, what they desired should be performed.

As [2] for the third Petition it seemed reasonable to all the Lords, that it should be granted.

Then [3] the Lords and Commons perceiving the imminent Danger the Nation was in, by reason of the great Wars, both by Sea and Land, for the defence of the Kingdom, and resistance of its great Enemies, granted the King two *Fifteenths* without Cities and Burghs, and two *Tenths* within Cities and Burghs for two Years; praying the King, that as well the Money of the said *Tenths* and *Fifteenths*, as the *Tenths* granted by the Clergy, and Money for the Subsidy of *Wool*, might be in the keeping of especial Treasurers by his own Appointment, which were *William Walworth* and *John Philpot*, Merchants of *London*, who were to give an Accompt of their Receipts and Disbursements, in manner as the King and his Council should order.

In this Parliament [4] *Alice Perrers* was brought before the Lords, where *Sir Richard L'Escope*, Steward of the King's Household, by the Command of the Prelates and Lords, recited, in the Presence of the said *Alice*, an Ordinance made in the Parliament holden at *Westminster*, in the Fiftieth Year of the late King *Edward the Third*, That no Woman, especially *Alice Perrers*, should prosecute any Business in the King's Court, by way of *Maintenance*, upon pain of Forfeiture and Banishment out of the Kingdom; and the said Seneschal or Steward, further informed the Lords, that she had incurred the penalty of it in two Points: First, That *Sir Nicholas Dagworth*, being ordered by the King's Council to go into *Ireland*, upon several Matters of great Moment to the King and Realm, she had persuaded the King that the said *Nicholas* (to the great prejudice of both) should be Countermanded: Secondly, That *Richard Lyons*, having, for certain Misprisions, for which he was Convicted in the late Parliament, submitted himself to the King's Grace, as to his Body, Lands and Goods, the said *Alice* had procured the King, with the Assent of his Council, to pardon the said *Richard* Three Hundred Pounds which he had owed to the Exchequer, and had further granted him a Thousand Marks as a Gift; which things being contrary to the said Ordinance, the Steward demanded of the said *Alice*, how she could clear her self of those Articles? Then the said *Alice* answered, that she was not Culpable or Guilty of them, which she was ready to aver and prove by the Witness and Testimony of *John D'Ipre* (at that time Steward of the King's House) *William Sheet* Comptroller, *Sir Allen Buxhall*, *Nicholas Carren*, Keeper of the Privy Seal, and others of the Court of the late King, who were present at the time of the supposed Forfeiture.

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But

But the Depositions of these Witnesses being somewhat long, I shall only give you a short Abridgement of them; which was to this effect, Anno Dom. 1377.
 [1] That upon *Wednesday*, the Day assigned for the Examination of the Witnesses, they were examined and sworn before the Duke of *Lancaster*, the Earl of *Cambridge*, and other Lords; and it appeared, by the Testimony of Sir *Roger Beaumont*, Chamberlain to the late King, that he being asked to deliver a Bill, containing the Revocation of *Nicholas Dagworth*, and importuned by the said *Alice* so to do; yet he had refused to do it, because it was contrary to a late Order of Council: But the late King asking what they talked about, and being informed of the Contents of the Bill, he thereupon voluntarily declared, *That the Petition was reasonable*; and when Sir *Roger* reply'd, that his Council had ordained to the contrary, the King answered, *He was Sovereign Judge, and it seemed to Him that the former Order was reasonable*, and Commanded him to call back the said *Nicholas*, which was done accordingly: Then the Duke of *Lancaster* himself deposed much to the same purpose, concerning the recalling of Sir *Nicholas Dagworth*, that the King had declared, *It was not reasonable one. Enemy should judge another*, and therefore he thought fit to Countermand his Voyage, though he (the Duke) had satisfied the King, it was done by his Consent in Council, who not long after came from *Alice Perrers*'s Chamber, to the Duke and told him, he must not suffer *Dagworth* to go to *Ireland*; but the Duke would not then comply, by reason it was otherwise Ordained by King and Council, though afterwards, at the King's express Command, *Dagworth* was Countermanded. But as to the Article of *Richard Lyons*, he said in his Conscience he believed *Alice Perrers* was the chief Promotress of that Business; but he was not then present himself.

[1] *Ibm.* 42.
The Deposition of the Witnesses on her behalf.

[2] *Nicholas Carren* being Sworn, depos'd, That coming to the King at *Sheen*, he there found *Richard Lyons*; and they two being commanded to come to the King's Bed-side, he there saw Dame *Alice* sitting at his Bed's-head; where was shewed, That the King would pardon the said *Richard* Three Hundred Pounds, due to him upon Accompt in the Exchequer, and also give him a Thousand Marks of his Treasure, and restore him what was given him to his Sons, the Earl of *Cambridge*, and Lord *Thomas of Woodstock*; and commanded him, the said *Nicholas*, to let his Sons know so much; and that the King revoked these Grants of his meer Grace. After him Sir *Alein Buxhall* Swore much to the same purpose, as that *Alice Perrers* then further desired the King, to acquaint the said Earls of his Pardon to *Lyons*; which at her Instance, the King commanded *Buxhall* to do; and presently after, there were Twelve other Persons called in, who were most of them Witnesses, who in the Nature of a Jury or Inquest being Sworn, and charged to speak the Truth, Whether the said *Alice* were culpable, or not, of what she was charged with; they found her Guilty, according to the Intent of the Statute made in the Fiftieth Year of *Edward III.* then considering the Damages and Villanies by her done, she was sentenced by Parliament to be Banished, and her Lands, Chattels, Tenements in Present and Reversion, to be forfeited, and seized into the King's Hands; and it was further ordained by the King, and Lords in that present Parliament, That all her Land in Feoffees's Hands, and purchased in Trust, should be also Forfeited; but that it was the Intention of the King and Lords, *That this Law, particularly made for the prevention of*

[2] *Ibm.*
She is proved Guilty of procuring *Richard Lyons* pardon.

She being found Guilty by an Inquest or Jury of 12 Men, is Condemned by the Lords to Banishment; and that all her Estate should be Confiscated.

Anno Dom. such odious things, should not be made use of, nor drawn into Example, against any other Person, or in any other Case.

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I have nothing more to observe concerning this Lady, but that not long after, she Married Sir William of Windsor, a Person of Note, and notwithstanding this Act or Ordinance last mentioned, they both in the next Parliament [1] Petitioned for a Revocation of it, for divers Errors therein recited; and they thereupon obtained a Reversal of the same; which lets us see how different and uncertain the Censures of Parliaments were in those Times, as well as our own.

[1] *Rot. Parl.*

2. *Rich. 2. N.*

26.

She not long after marries Sir William Windsor, and they obtain a Reversal of the late Judgment in the next Parliament.

[2] *Ib. N. 49.*

The Commons pray, that all evil Counsellors be put from the King, with another Request against Maintenance.

[3] *Ibm.*

Both which are granted.

[4] *Ib. N. 50.*

The Commons desire, that the Chancellor, and chief Justices and chief Baron, with other great Officers of the Kingdom, should be made by Parliament.

[5] *Ibm.*

Which is granted during the King's Minority.

[6] *Ib. N. 88.*

The Commons Petition against the setting free Villains.

[7] *Ibm.*

The Answer to it.

I shall now give you some other remarkable Petitions of the Commons, with the King's Answers to them. [2] The Commons pray'd, that because the late King Edward was guided by evil Counsellors, as had been authentickly proved, that they might be removed from all the King's Councils; and that other fit Persons might be put in their Places; and further, that no Officers of the King's Court, great or small, do keep up Quarrels or Suits in the Country by *Maintenance*, nor meddle with any thing, but what belongs to their Office.

As [3] to the first Request, the King granted it; and as to the Second, touching *Maintenance*, he further intorced it, by streightly forbidding any Counsellor, Officer, or other Servant, or others belonging to Him, in the Kingdom, to uphold any Quarrel or Suit by *Maintenance*, under pain of losing their Offices and Services, and to be Imprisoned, and Ransomed at the King's Pleasure.

The [4] Commons also pray'd, That during the King's Minority, the Chancellor, High-Treasurer, Chief Justices of one Bench and the other, the Chief Baron of the Exchequer, the Steward and Treasurer of the Household, the Chief Chamberlain and Clark of the Privy-Seal, the Wardens of the Forests on this side *Trent* and beyond, might be made by Parliament; and if it should happen, that any of these Ministers or Officers should be laid aside, between one Parliament and another, that then another be put in his Place, by the King's Council, until the next Parliament should meet.

This [5] Petition was likewise granted in part, that while the King was under Age, the Counsellors, Chancellor, Steward of the Household, and Chamberlain, should be all chosen by the Lords in Parliament, Saving always the Estate and Heritage of the Earl of *Oxford*, to the Office of Chamberlain; and as to the other Officers above-named, the King should make them by the Assent of his Council.

Their [6] next Petition was against the setting free of Villains, belonging as well to Clergy-men as Lay-Lords, many having lately withdrawn themselves, by Procurement of certain Advisers, Maintainers, and Abettors in the Country, who received Money of them, by colour of Exemplifications, purchased in the King's Court out of *Domesday Book*, of the Mannors and Towns where they dwelt, by means of which they had discharged themselves of all manner of Service; and therefore to prevent this, they humbly pray due Remedy.

To [7] which the Answer was, That as to the *Exemplifications*, Grants, and what else had been done in Chancery, it was declared in Parliament, that they could not, nor ought to be of any Value, or take Place, as to the Freedom of the Bodies of such Villains, nor change the Condition of their Tenure and Custom antiently due, nor do any prejudice to their Lords concerning them; who if they would, might have

have Letters. Patents of his Declaration under the Broad Seal, with other Matters there mentioned, which since they are now become obsolete, and are also recited in the Printed Statute concerning this Grievance, I refer you to it.

Then [1] the Citizens of *London* desired, that upon the King's special Grace, and for the Enlargement of the *Franchises* of their City, if any Article in the Charter granted by Him or his Progenitors, to the said Citizens, should prove difficult or doubtful, and might be taken in divers Senses, that then the Sense they claim'd to have it in, ought to be allowed.

To [2] this the Answer was, That the Interpretation of the King's Charters belonged to Him; and if any Doubt arose thereupon, the King, by Advice of his Council, would make such Interpretation, as should be according to Reason and good Faith; and so this Parliament ended.

As [3] to Foreign Affairs, they were manag'd with various Fortune; for the *Scots* breaking in upon that part of *Scotland* which was under the *English* Dominion, burnt the Town of *Roxburgh*; but the Earl of *Northumberland*, in Revenge, entred *Scotland* with Ten Thousand Men, and for Three Days together ravaged and spoiled the Land of the Earl of *Marche*, because he was the cause of the burning the Town last mentioned: But some time after, the *Scots* took the Castle of *Berwick* by Surprise; upon which ill News, the Earls of *Northumberland* and *Nottingham*, with the Lords *Nevil*, *Lacy*, and *Stafford*, besides other Men of Quality, presently marched down thither, with a sufficient Army of Three Thousand Horse, and Seven Thousand Archers; who entering the Town, besieged the Castle, and at last took it by Assault, and kill'd all the *Scots* they found in it, except *Alexander Ramsay* their Governor. As soon as the *English* had thus recover'd the Castle, they marched farther into *Scotland*, in hopes to meet with, and fight the *Scots*; who watching for some Advantage, kept out of sight: Then the *English* Generals, sending out Sir *Thomas Musgrave*, a Knight of *Cumberland*, with Three Hundred Lances, and Three Hundred Archers, as far as *Melros*, to make Discovery; they, for want of good Intelligence, fell into part of the *Scotish* Army under Earl *Douglas*, consisting of about Three Thousand Men, who soon putting the *English* to the Rout, took Sir *Thomas Musgrave*, and Sixscore others, Prisoners, the rest being either killed, or saved themselves by Flight.

But in *France* Matters went much worse; [4] for not long after, the *French* having besieged the Town of *Ardres* near *Calais*, had it betray'd to them by the Captain of the Castle, called the Lord *De Gurny*, a *German*; for which Crime he was seized by Sir *Hugh Calverly*, Governor of *Calais*, by whom he was sent into *England*, and committed close Prisoner: Nor were Affairs much better in *Aquitain*, where Sir *Thomas de Hilton*, the King's Lieutenant, tho' a Person of great Valour, yet falling too rashly, with a few Men, upon a much greater number of *French*, he was by them routed, and taken Prisoner, with divers other Gentlemen, near the Town of *Reole*.

And to put the rest of the Affairs of *France* together, about the end of this Year, [5] Sir *Hugh Calverly*, Governor of *Calais*, marched thence before Day; and coming early in the Morning to *Bologne*, burnt and plundered most part of the lower Town, and then returned back

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Rich. 2. cap. 6.

[1] *Idem.*
The *Londoners* desire an Enlargement of their *Franchise*, &c.

[2] *Idem.*
The King's Answer.

[3] T. W.
ad hunc An.
The *Scots* burn *Roxburgh*.

And surprize the Castle of *Berwick*, which is retaken by the Earls of *Northumberland* and *Nottingham*.

A Party of *English* under Sir *Tho. Musgrave* is routed, and himself taken Prisoner.

[4] *Id. ib.*
The *French* take *Ardres*, near *Calais*, it being betray'd by the Governor, for which he is sent Prisoner into *England*.

Sir *Tho. Hilton* taken Prisoner in *Aquitain*.

[5] *Id. ib.*
Sir *H. Calverly* marches out of *Calais*, burns great part of *Bologne*, and returns with a great Booty of Cattle; and recovers the Castle of *March*.

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[1.] *Id. ib.*  
The English  
Fleet goes out  
to take a Na-  
vy of Spanish  
Ships, but is  
dispersed by a  
Storm.

And going  
out again, met  
with a worse  
Disappoint-  
ment through  
the Cowardice  
of part of the  
Seamen.

[2.] *T. W.*  
*ad Eunc. An.*  
Sir Tho. Piercy,  
with a few  
Vessels, takes  
a Fleet of *Spaniards*  
and  
*Flemmings*.

[3.] *Id. ib.*  
The Duke of  
*Lancaster* of-  
fers to put out  
a Fleet with  
the publick  
Moneys; but  
before it can  
set out, one  
*Mercer*, with  
certain other  
*French* and  
*Spanish* Ships,  
takes several  
*English* in the  
Harbour of  
*Scarburgh*.

with a good Booty of Cattle, and other Goods. Also Sir *Rob. de Galle*, Governor of the Castle of *Merck*, not far from *Calais*, being gone into *England*, certain *Picards* that were there in Garison, took that Opportunity, by the Negligence of the *English* Soldiers, to deliver that Place to the *French*; but Sir *Hugh Calverly* hearing of it, made such quick Dispatch, that marching thither with a Body of Men, he retook the Castle the same Day, and hang'd up those *Picards* that had betray'd it.

But the *English* had not so good Success at Sea; [1] for the young Earl of *Buckingham*, the Duke of *Bretagne*, the Lord *Latimer*, the Lord *Fitzwalter*, and Sir *Robert Knolls*, with divers other Noblemen, going on Board the Fleet, which was now got ready, with a great number of Mariners, resolved to go against a great Navy of *Spanish* Ships, that then lay in the Haven of *Slurce*, which they did, but with bad Fortune; for a great Storm taking them in their Passage, the Fleet was dispersed, and driven into divers parts of *England*, having suffer'd great Damage in their Masts, Sails, and other Tackle; which, when they had refitted, they went out again a second time, against the *Spaniards*; and though they then met with some bad Weather, yet was not their ill Success so much owing to that, as to the Cowardice and Treachery of the Captains and Seamen of great part of the *English* Fleet; for when their Admiral, the Earl of *Kent*, was about to fall again upon that of the *Spaniards*, that Squadron which was Commanded by the Lord *Fitz-Walter*, did not only refuse to bear up to the Earl's Assistance; but when their Commander reproved them for their Stubbornness, they were like to have flung him over Board, had he not got off in a Barge; and coming up to the Earl, they fell upon the *Spaniards*, and took Eight of their Vessels; and might have taken more, had they not been basely deserted by the rest; so that they were forced to return again into Harbour presently after *Christmas*: Yet another part of the Fleet that stay'd behind to refit, had much better Success in the beginning of the Year ensuing, when the Sea-Affairs were however carried on with various Fortune.

For [2] about the beginning of this present Year, Sir *Thomas Piercy* having repair'd the Damage that had been done to his Ships by the late Storms, set out again with only one great Ship, two Barks, and some other smaller Vessels; and meeting Fifty Ships laden with *French* Goods, whereof some were *Spaniards* and others *Flemmings*, (having warned the latter to separate from the former, and it being by them refused) he set upon them all together; insomuch, that they being terrified with his Valour, and supposing he had more Ships behind, made but small Resistance; so that he took Two and Twenty of them, all the rest saving themselves by Flight; so that this Nobleman, with his small Squadron, return'd home with that Success as exceeded all Expectation.

Not [3] long after this, the Duke of *Lancaster*, beginning now to concern himself in publick Affairs, desired to have the Management of great part of the Money that had been granted by the last Parliament, promising therewith to set out a powerful Fleet, to make good the late Loss and ill Success; and to this end, he sent and hired Nine great Ships from *Bayonne*, which in their passage to *England* took Fourteen *French* Vessels, laden with Wine and other Merchandize; but before this Fleet could be got ready, one *Mercer*, a *Scottish* Man, came; with certain

certain *French* and *Spanish* Vessels under his Command, into the Harbour of *Scarburgh*, and there took several Ships, and carried them away. This he did in Revenge of his Father's Imprisonment, who being a noted Pirate, and having been some time before taken at Sea, and delivered to the Earl of *Northumberland*, was by his Order then kept Prisoner in the Castle of that Place; but *John Philpot*, Alderman of *London*, a Person remarkable for his Courage, as well as Riches, being grieved at this ill Management, complain'd to the King's Council of the Damage he had lately received, and desired speedy Redress; but not being able to obtain any more than fair Promises of them, he grew impatient at these Delays, and without any more ado, set out a competent Fleet at his own Charge; and going with them in Person, not long after met Fifteen *Spanish* Vessels richly laden, which were part of *Mercer's* Fleet, and making them Prize, was very well paid for the Money he had laid out of Pocket; but not long after, being called in Question by the Lords of the King's Council, for presuming to set out Men of War without their Advice or Command, he made so good a Defence to the Earl of *Stafford*, and others that laid it to his Charge, that he was dismissed without any farther trouble.

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Some time [1] after, the Earls of *Salisbury* and *Arundel*, having got part of the Fleet that was ready to set out, sailed over towards *Normandy*, to assist the King of *Navarre*, who was then fallen out with the *French* King, his Brother in Law; but part of the Fleet met with ill Success in their Passage thither; for Sir *Philip* and Sir *Peter Courtney*, two Brothers, then Commanding a Squadron of the *English* Navy, fell unwarily into the midst of a strong Fleet of *Spaniards*; and being by them over-power'd, Sir *Peter*, after the loss of a great many Men, was forced to save himself by Flight, being also grievously Wounded; but Sir *Philip* was taken Prisoner, with those Knights that accompanied him, a great many other Gentlemen of the *West* Country being either Kill'd or Drowned, to the great Loss and Prejudice of the Nation; nevertheless, the Earls above-mentioned, with the rest of the Fleet, arrived safe in the Haven of *Cherburgh*, which, together with the Town and Castle adjoining, was delivered to them by way of Mortgage, by the King of *Navarre*; and it afterwards proved very prejudicial to the *French*, in that part of *Normandy*.

Alderman *Philpot* sets out a Fleet at his own Charge, and takes 15 *Spanish* Vessels richly laden. For which being question'd before the Lords of the Council, he makes a good Defence, and is acquitted. [1.] *Id. ib.*

Sir *Philip* and Sir *Peter Courtney*, with the Squadron under their Command, are taken by the *Spaniards*, and many Men are left.

Then presently after Midsummer, the *English* Fleet being ready to set Sail under the Command of the Duke of *Lancaster*, who was accompanied with the Earls of *Warwick*, *Stafford*, and some others of the *English* Nobility, they steered for the Coast of *Bretagne*, and arriving before *St. Malo's*, laid close Siege to it by Sea and Land; but the Town being naturally strong, was so well defended, that the Duke was forced to raise the Siege, and return home, without doing any thing of Moment.

Not long after this, there happen'd an Accident, which, tho' of no publick Concern, yet caus'd a great Disturbance, and highly increased the Hatred of the People, against that Duke: [2] The Business was thus; a *Spanish* Nobleman, called the Earl of *Denia*, having been taken Prisoner in the late War in *Spain*, by *Rob. Haullie* and *John Shakel*, two Esquires of Note, he found so much Favour, that upon leaving his Eldest Son as a Pledge for his Ransom, he had his Liberty, on Condition he should raise the Money for his Ransom, so soon as he came home; Keepers:

[2.] *Id. ib.*

The Account of the Imprisonment of the Earl of *Denia*; and of his being demanded by the Duke of *Lancaster*, from his



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One of the Gentlemen that kept the Earl is taken out of the Sanctuary, and imprisoned, for refusing to deliver him.

Divers being killed in the taking of him, the A. B. of Canterbury excommunicates all those that had a hand in it.

home ; which he neglecting to do, his Son remained here a Prisoner till his Father's Death, who had taken no care at all to Redeem him : But the Duke of *Lancaster*, being now desirous to have this young Earl in his own Hands, in order to the Design he had upon *Spain*, procured the King to send to these Gentlemen, to deliver their Prisoner to the Duke, which they looking upon as a very hard and unjust Proceeding, refused, and slipped him out of the way, and were thereupon committed close Prisoners to the Tower for their Contempt ; but not long after, finding Means to escape from thence, they took Sanctuary in the Abbey of *Westminster* : The Duke of *Lancaster* highly offended at this, sent Sir *Alein Buxhall*, the Constable of the Tower, and Sir *R. Ferrars*, with Fifty Armed Men, to take these two Gentlemen out of the Sanctuary by Force ; and coming upon them whilst they were at Mass, seized *Shakel*, and carried him away Prisoner to the Tower ; but as for *Hall*, he made so vigorous a Defence with a short Fawchion he had about him, that they could not take him ; at last, in traversing his Ground about the Choir, to avoid the Assaults of those that came upon him, they got that Advantage, that one of them broke his Scull even to the Brains, whilst another ran him thro' with a Sword : And at the same time Murthered a Servant of his, that took his part ; as also a Monk, that interceded to save his Life. This Action was highly resented by the Clergy, insomuch that the Arch-Bishop of *Canterbury*, and Five other Bishops of his Province, openly declared all those *Excommunicated* that had any Hand in these Murthers, and particularly Sir *Alein Buxhall*, and Sir *Ralph Ferrars*, their Leaders ; as also all that aided, counselled, or advised the doing of it ; only the King, with his Mother, and the Duke of *Lancaster*, were excepted by Name ; yet for all this, the Duke's Power was so great, that I do not find any Temporal Punishment inflicted on the Actors of this horrid Murther, which shews us with how great Partiality Justice was Administred, during this King's Minority : But we shall now proceed to Matters of more publick Concern.

[1] *Rot. Claus.*  
2. *Rich. 2. M.*  
29. *dors.*

A Parliament  
summed at  
*Glocester*.

[2] *Rot. Parl.*  
2. *Rich. 2.*  
*Parl. 1. N. 1. 2.*

The cause of  
the Summons  
declared by  
the Bishop of  
*St. Davids*.

[3] *Ib. N. 7.*  
[4] *Ib. N. 15.*  
Sir *Richard*

*L'Esope* sets  
forth the  
great danger  
of the Nation,  
&c the charge  
of maintain-  
ing so many  
foreign Gar-  
rison.

A [1] Parliament was summoned to meet on the Twentieth of *October* at *Glocester*, (which Place is supposed to have been pitched upon, out of Hatred to the City of *London*) but tho' they met there at the Day appointed, yet they did not proceed to Business till the Day following ; [2] when being met in the great Hall of the Abbey there, the Bishop of *St. Davids*, then Lord Chancellor, declared the Cause of Summons ; wherein he took Notice of what had been done by the *Scots* at *Roxburgh* ; and that since, notwithstanding the late Truce, they had made a fresh Alliance with the *French* against *England*.

Next [3] Day Sir *Richard L'Esope*, Steward of the Household, enlarged upon the Causes of calling the Parliament ; [4] and making excuse for his own Inability, told the Prelates, Lords and Commons, (as the Chancellor had said before) that the Nation was incompassed with Enemies, who daily increased : That the Ports of *Cberburgh* and *Brest*, which of a long time had not been in the Hands of the *English*, besides *Calais*, *Bourdeaux*, and *Bayonne*, with the Countries adjacent, were very chargeable to maintain ; since *Calais*, with its Marches or Limits about it, stood the King in Twenty-four Thousand Pounds every Year, and *Brest* Twelve Thousand Marks, and the other Three Places according to the same Rate.

Then [1.] Sir James Pickering being admitted Speaker of the House of Commons, came with them before the King, Prelates and Lords in Parliament, and made Protestation, as well for the whole Commons of England, as for himself. First, *If he should utter any thing to the Prejudice, Damage, Slander, or Disgrace of the King, or his Crown, or in lessening the Honour or Estate of the Great Lords, it might not be taken notice of by the King, and that the Lords would pass it by, for that the Commons highly desired to maintain the Honour and Estate of the King, and the Rights of the Crown; as also to preserve the Reverence due to the Lords in all Points: Then as for his own Person, he made his Request, that if by Indiscretion he spake any thing unwarily by Common Assent of his Companions, it might be amended by them, before their departure, or afterwards.*

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[1.] *ib. N. 16.*  
The Speaker of the House of Commons makes Protestation before the King and Lords, and the effect of it.

He [2.] then Rehearsed in short, the Articles given them in Charge; and first, as to the *Liberties and Franchizes* granted to Holy Church, and for the King's Promise of entirely preserving the Good Laws and Customs of his Kingdom, and Punishing such as should any ways Act against them; the Commons humbly thanked Him with their whole Hearts, kneeling upon the ground, and praying God they might be put in due Execution.

[2.] *ib. N. 17.*  
He returns thanks to the King for his gracious Concessions to the Church and State.

That [3.] as to the Aid the King Demanded of his Commons for the Defence and Safety of his Kingdom, and for the Safeguard of his Lordships, Lands, Towns and Forts Beyond-Sea, and toward his Wars. The Commons said, that in the last Parliament, in his first Year, the same things were shewn unto them in behalf of the King, at which time they Answer'd, it was apparent the King had not so great need for an Aid, seeing He had in his hands the *Priorities Alien*, the Subsidies of *Wool*, the Revenues of the Crown, the Lands of the Prince his Father, and many other Great Lordships, by the *Non-age* of the Heirs of them; and that therefore they still conceive there must be great plenty of Money in the Treasury.

[3.] *ib. N. 18.*  
The Commons excuse giving any further Aid at this time, and why.

To [4.] this the King's Council in Parliament then Answer'd, That the late Charge of the Coronation had been very great, and that the Money upon those *Funds* they mentioned came in very slowly, nor could they be Collected soon enough for an Expedition that Year; and it was then further propos'd, That if the Commons would Furnish the King with a great Sum of Money to make such an Expedition as might be for the Destruction of his Enemies, they (the Council) hoped He might have Money sufficient hereafter from time to time to Maintain the War, and Defend the Kingdom.

[4.] The Answer of the King's Council in Parliament, who still insist upon a Supply.

To [5.] this the Commons Replied, That in hopes of that Promise to be discharged of all Tallages for a long time, they had Granted a greater Sum than had ever been given to any King to be Levied in so short a time; and that all things Consider'd, it seem'd to the Commons, that there must needs be a great Sum in the Treasury, besides what had been Expended in the last Voyage, so that the King had no need to Charge the Commons, who were in a lower Condition than ever, by reason of that Payment, and also by the *Murrain* amongst their Cattle, and their Enemy's Burnings and Depredations upon the Sea-Coasts; that their Corn and Cattle were at so low a Rate, that no Money could be raised at present; whereupon they prayed the King to Excuse them, as not being able to bear any further Charge for pure Poverty

[5.] The Commons still persist in Excusing themselves.

[1.] To



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[1.] *Ib. N. 19.*  
*Sir Richard le*  
*Scrope Replies*  
 to the Com-  
 mons on the  
 King's behalf,  
 and denies  
 their Allega-  
 tion to be true

To [1.] all which, *Sir Richard le Scrope* Reply'd, by making Pro-  
 testation that he knew of no such Promise made by the King in the  
 last Parliament; and saving the Honour and Reverence due to the  
 King, and Lords, what the Commons said was not true; and as to the  
 Subsidy last Granted, that a great part of it was still in the Treasury;  
 to wit, of the two *Fifteenths*, and two *Tenths*: But as to the *Wood*  
 that had been given in that Parliament, he vouched the Testimony of  
*William Walworth*, and *John Philpot*, who by their Consent were ap-  
 pointed Receivers of the same, that every Penny thereof was Expended  
 upon the War, and that none of it came to the High Treasurer of  
*England*, or any other, to the Use of the King: That the Revenues  
 of the Crown, considering the Annuities and other Charges upon  
 them, Granted by his Father, and Grandfather, were so small, that  
 without the Customs of *Wooll*, and Lands of the Priors Aliens, the  
 Honour and Estate of the King could not be maintained; and there-  
 fore they were to know, that according to Reason they ought to re-  
 linquish their Complaint, if they pleased.

[2.] *Ib. N. 20.*  
 The Com-  
 mons desire  
 an Account  
 how the Mo-  
 ney given has  
 been laid out.

Whereupon [2.] the Commons, after a short deliberation, made  
 it their Request to the King, that He would please to shew them how,  
 and in what manner the great Sums given for the War had been Ex-  
 pended; and also that He would please to let them know the Names  
 of such as should be the *Great Officers* of the Kingdom, and who were  
 to be his *Counsellors*, and *Governors* of his Person, (being yet of tender  
 Age) for the next Year, as it had been before *Ordained* in Par-  
 liament.

[3.] *Ib. N. 21.*  
 The King  
 with a Prote-  
 station con-  
 sents that the  
 Commons  
 should see the  
 Accounts.

To [3.] which it was Answered on the behalf of the King, by the  
 said *Sir Richard*, that tho' there never was any Account yet given of  
 Subsidies, or any other Grants made in Parliament, or out of Parlia-  
 ment, to the *Commons*, or any other, but to the King and his Officers,  
 yet that the King Willed and Commanded of his own Motion, to please  
 the Commons, (not that it was of Right for him so to do) or that He  
 was oblig'd to do it, only by reason of their Request now made, that  
*William Walworth* then present, with some of his Council Assigned  
 thereunto by Him, should in Writing clearly shew them the Receipts  
 and Expences, so as it should not be drawn into an Example for the  
 Future.

As to the *Officers*; the King had caused them to be Chosen by the  
 Advice of the Lords; and as to his *Counsellors*, they should be such  
 as pleased Him, whose Names He would shortly give them in  
 Writing.

[4.] *Ibm.*  
 The King still  
 presses the  
 Lords and  
 Commons to  
 provide for  
 the Defence  
 of the King-  
 dom.

Then [4.] the King not only Commanded them, but all the Lords  
 there present desired, that having due Consideration of the great and  
 apparent Dangers on all sides, they would Provide for the Defence of  
 the Kingdom; which not only concern'd the King, but all and every  
 one of them, and therefore to consider how the War might be Main-  
 tain'd, and that they would give as speedy an Answer as they could,  
 that the Parliament might have an end, and good effect, for the ease  
 of the King, the Lords, and themselves, as also for the Profit of the  
 Kingdom, and Discharge of the poor *Commons*, that every day paid  
 their Expences during the Parliament. This was one of their Princi-  
 pal Charges given the first Day: Another was, That if any Fault  
 was found in any part of the Kingdom, or Government, in the Laws,

And offers to  
 hear their Pe-  
 titions of Grie-  
 vances, and  
 Redress them.

Vol. III.

or



or any other manner, what they would bring in their Petitions concerning it, and they should have due Remedy. *Anno Dom. 1377.*

[1.] Then the Commons desired to have a time limited to bring in their Common Bills, or Petitions, and that it might be prolonged to the Feast of *All-Souls*, or second of *November* next coming. *[1.] Ib. The Commons desire a longer time for it.*

[2.] Also the Commons prayed the King to have a Copy of the Enrolment of the Subsidy of *Fifteenths*, and *Tenths*, as they had been Enrolled upon the Roll of Parliament for them to Advise upon; and this was granted at the King's Pleasure, and not upon their Request. *[2.] Ib. N. 22.*

[3.] They Pray'd likewise that five or six *Prelates* and *Lords* might come to the *Commons*, to Treat with them about their Charge, but the *Lords* Answer'd, they neither ought, nor would do it in that manner, which had never been seen but in the three last Parliaments; but the Custom was for the *Lords* to choose a small number of Six, or Ten, and the *Commons* as many of themselves, to Treat together without noise, and then Report what they had done to their Companions, of one part, and the other; and according to this Method the *Lords* would Act, and no otherwise. To this the *Commons* assented, to proceed as had antiently been used. *[3.] Ib. N. 23. The Commons desire 6 Bishops, and 6 Lords might come to their House to treat about their Charge, which is refused, unless the Commons would also choose a Committee of as many.*

After [4.] the *Commons* had seen and Examined the Enrolment, Receipts, and Expences, they were well satisfied with them, as being Honourable for the King and Kingdom; and only said that Forty Six Thousand Pounds, which was expended in keeping several Countries, Places and Fortresses, as the Marshes of *Callais*, *Brest*, and *Cherburgh*, *Gascoigny*, and *Ireland*, was not to be Charged upon them, nor as it seem'd to them, were they bound to bear any Foreign Charge. *[4.] Ib. N. 24. The Commons are very well satisfied with the laying out of the Money, only except against the Charges of Foreign Garrison.*

To [5.] which it was Answer'd by the King's Council, that *Gascoigny* and the Forts beyond Sea were *Barbicans*, and as it were Out-works and Defences to *England*, and if they were well Guarded, and the Sea well kept, the Kingdom would be quiet, otherwise it could not be so. *[5.] Ib. N. 25. The Reply to this Objection.*

The [6.] *Commons* then propounded this Charge to be defrayed by the Goods and Estate of King *Edward* the Third, which the King Possessed, and was much Enriched by it. Whereto it was Answer'd, that those Goods were justly apprais'd, and deliver'd to those his Grandfather was Indebted to, except some Necessaries reserv'd for his own House, for which He had paid in part, and was to pay in whole for the Satisfaction of his Creditors; and therefore the King Commanded, and the Prelates and Lords prayed them (as they had done before) to Advise about their Charge, and give good and effectual Answers thereunto, with as much hast as might be, for the common profit of the Kingdom, and ease of the Lords, and themselves. *[6.] Ib. The Commons further proposed this Charge to be defrayed by the Personal Estate of the late King, which is shew'd cannot be done.*

At [7.] length, notwithstanding all these Excuses, the Prelates, Lords and Commons, perceiving the great Perils wherewith the Land was encompassed, and the great and extraordinary Expences the King was to be at for the Safety and Defence thereof, agreed and granted the King the former Subsidy of *Wooll*, *Leather*, and *Woollfells*, for Three Years, viz. of *Wooll* Forty Three Shillings and Four Pence the Sack, of *Woollfells* as much; that is, for every Two Hundred and Forty of each (accounting Sixscore to the Hundred) as also for *Leather* Four Pound, Six Shillings and Eight Pence on every Last, which should be Exported by Denizens, and Strangers, besides the antient *Vol. III.* *[7.] Ib. N. 29. The Lords and Commons at last agree, and grant the King a further Subsidy upon Wooll, Leather, &c. besides some other Additional Duties.*

*Anno Dom.* Custom; and as an Additional Grant, they gave Thirteen Shillings and Four Pence more for every Sack of *Wool*, as much for every Two Hundred and Forty *Woolfells*, and for every Last of *Leather*, Twenty Six Shillings and Eight Pence. Also they gave Sixpence in the Pound for every Pound Value of Merchandize, as well of *Denizens* as *Strangers*, both Imported, and Exported, for one Year, and then the Parliament was Dissolved.

[1.] T. W.  
*Ad hunc An.*  
Some petty  
Successes of  
the English in  
*France*.

But to say something further of Foreign Affairs, the [1.] *English* at the beginning of this Year, had some Petty Successes in *France*; Sir Robert Knolls, Governor of the Castle of *Brest*, took above Four-score French Prisoners, who had made an Inroad to Plunder the Adjacent Country. And moreover presently after *Christmas*, Sir Hugh Calverly, who never loved to be Idle, marched privately out of *Calais* with a Select Band of Brave Soldiers to the Town of *Stapal*, where he heard there was to be a Great Fair, and falling upon certain Merchants of *Bologne*, *Paris*, *Amiens*, and other Places; he not only took a great many of them Prisoners, who were made to pay large Ransoms, but also took away a good quantity of Rich Commodities; and as for those he could not carry away, he threatened to burn, unless the Owners would agree to Redeem them at a certain Price; which being dispatched, he Burnt the Town, and return'd to *Calais* with a Rich Booty of Prisoners, and Commodities, which serv'd the Town a great while after.

[2.] *Id. ib.*  
Those of *Rye*  
and *Winchelsey*  
joyning their  
Ships, Land in  
*Normandy*, and  
Plunder Port  
*St. Pierre*, and  
other Places.

About [2.] the same time, the Men of *Rye* and *Winchelsey* joyning their Ships together, were resolv'd to be Reveng'd on the French for the Damage they had done them the last Year; and Landing by Night upon the Coast of *Normandy*, they Assaulted a Town called *Port St. Pierre*, which they took and Plunder'd, not sparing the very Churches, killing many of the Towns-Men, and carrying away some of the Richest of them Prisoners. And in short, they amply re-paid the French for all the Mischief they had done them; and then Marching forward to another small Town, called *Wilet*, not far off, they did the like there, and then return'd home with good Success, and a very Rich Booty.

[3.] *Id. ib.*  
The Successes  
of Sir Hugh  
Calverly a-  
gainst the  
*French*.

I cannot here omit, that about the time that *Cherburgh* was deliver'd to the *English*, [3.] Sir Hugh Calverly perform'd another Action worth our Notice; for Marching from his Government at *Calais* with some Forces, and making an IncurSION toward *St. Omers*, he carried away a great multitude of Cattle, with which he return'd to *Calais* without any Resistance; and some time after this he was too hard for the French Governor of *Ardres*, who having obtain'd a great quantity of Cannon, and other Ammunition from the French King his Master, was afraid lest they should be Surprised by the Governor of *Calais* in their passage. To prevent which, he sent to him, desiring his safe Conduct to Treat with him about divers Matters of Moment; and the *Monsieur* resolv'd to take that very Day to bring his Ammunition to *Ardres*. But Sir Hugh being aware of his Design, sent out certain Forces very early that Morning, which seiz'd upon the Cannon and Ammunition by the way, and brought them safe to *Calais*. But the Captain of *Ardres* hearing of this Exploit, whilst he was on the way, finding himself out-witted, return'd back with great shame, and discontent.

Vol. III.

In



In [1] *Scotland* the Military Actions met with various Success; for the Men of *Northumberland*, trusting too much in their own Strength, made an Excursion into the West-marches of *Scotland*; but the Scots having notice of their coming, met them with an equal, if not greater Force; and engaging with them, kill'd the major part of them; which so dilpirited the *English*, that the Scots did what they pleased in those Parts: Wherefore the Earl of *March* was sent to renew the Truce with them, tho' it did not last long; for on *Thursday* before the Feast of *St. Andrew*, the Scots in the Night surprized *Berwick-Castle*, and killed *Sir Robert Boynton* the Governor, yet suffer'd his Wife and Children with their Relations, to depart, upon condition to pay Two Thousand Marks within Three Weeks, or deliver themselves Prisoners; but the Earl of *Northumberland* gathered a sufficient Force, and in Nine Days time retook it by Storm, putting to the Sword all the Scots he found in it, except one that discover'd the Contrivance, and the Scots Designs: And thus, by the Valour of the Earl, and the Lord *Piercy* his Eldest Son, this Important Place was recovered with much more Honour and Difficulty than it was surprized.

I shall conclude this Year with an Account of some Ecclesiastical Affairs of great Moment. [2] Pope *Gregory*, the Eleventh Deceasing at *Rome*, on the Seven and Twentieth Day of *March*, the Cardinals thereupon went into the Conclave to chuse a new Pope; where being threaten'd by the People of *Rome*, that if they did not elect a *Roman*, they would look upon the Election as Null; they therefore, to comply with their Humour for the present, chose an old decrepid Cardinal, near an Hundred Years of Age, for Pope; at which, the People were so pleased, that putting him upon a White Mule, they carried him about the Town in Procession, which so fatigued the poor Old Gentleman, that he died within Two Days after, which broke all the Measures of the Cardinals; for being again threatned by the Citizens that they did not chuse an *Italian*, they thereupon Elected the Arch-Bishop of *Bari*, a *Neapolitan*, who coming to *Rome*, was Crowned by the Name of *Urban* the Sixth; but when he would have made some Reformation in the Family of the Cardinals, and retrenched their Pomp, Avarice, and Luxury, many of them Rebelling against him, He fled into the Kingdom of *Naples*; and being there received by the Queen of that Country, they publickly declared they had chosen the present Pope for fear of Death, and therefore it was void; whereupon proceeding to a new Election, they chose the Cardinal of *Civennes*, Son to the Earl of that Name, a Kinsman to the King of *France*, in hopes that He would assist him, and own his Title; whereupon, this Cardinal taking upon Him the Name of *Clement* the Seventh, fixed his See at *Avignon*; upon which, Pope *Urban* making Twenty new Cardinals in the Places of those that had deserted Him, Excommunicated the Anti-Pope, and all his Adherents; which begot such a Schism in the *Romish* Church, as never had been before, it lasting above Fifty Years; during which time there were no less than two Popes at once, the one at *Rome*, the other at *Avignon*; the former of which was own'd by the Emperor, the Kings of *England*, *Portugal*, and *Hungary*; and the latter by the Kings of *France*, *Scotland*, *Castile*, and *Naples*.

*Anno Dom.*  
1377.  
[1.] *Id. ib.*  
The defeat of  
the English in  
the Marches  
of Scotland.

The Scots sur-  
prize the Ca-  
stle of *Berwick*  
which is retaken  
by the  
Earl of *Northumberland*.

[2] *Comin.*  
*Ad. Mur.*  
*Froiss. 2. Vol.*  
*N. C.*  
The death of  
Pope *Gregory*,  
who is succee-  
ded by an old  
Cardinal, who  
sits but two  
days; when  
upon the Car-  
dinals make a  
new Election,  
wherein the  
Arch-Bishop  
of *Bari* is cho-  
sen, by the  
Name of  
*Urban VI.*

Many Cardi-  
nals rebelling  
against him,  
chuse a new  
Pope, by the  
Name of  
*Clement VII.*  
who makes  
his Residence  
at *Avignon*.

Anno Dom.

1379.

[1] T. W.

Pope Urban sent his Nuncio's to the King, setting forth the Insolence of the Apostate Cardinals against him: The Pope of the contrary Party does also send his Nuncio's to justify his Title; but upon Examination, that of Urban is allowed.

Anno Dom.

1379.

[2] H. ad

bunc An.

Sir Rob. Rouse, Governor of Cherburgh, is recalled, and Sir R. Herleston put in his Place: Sir Hugh Calverly is also recalled from Calais; and he and Sir Thomas being made Admirals, take many rich Ships.

[3] Ib. id.

King Charles of France forces the Noblemen of Bretagne to surrender to him all their Castles, and strong Places.

[4] Ib. id.

Sir H. Calverly and Sir Tho. Piercy, sail to the Coast of Bretagne, and take 7 or 8 Ships; but soon discharged by a British Knight.

I have nothing more to add concerning this Affair, [1] but that during the Sessions of the last Parliament, Pope Urban sent his Nuncio's to the King and Lords, setting forth the Injury and Insolence of the Apostate Cardinals, who had endeavour'd to depose Him, and set up another, to the Subversion of the *Romish* Church; and about the same time there came other Messengers from the Pope and Cardinals of the contrary Party, justifying what they had done, desiring the King's Assistance; but upon a mature Discussion of both their Rights, the Sentence of the Arch-Bishop of *Canterbury* prevail'd; whereupon, Urban's Title was allowed, and Clement's rejected: But of this Affair you will hear more hereafter.

In the mean time, whilst these two Popes wrote against and *Excommunicated* each other, *John Wickliff*, and his Party, did not only pass without Censure, but also daily increased.

Since *England* now affords us nothing worth our noting, I shall, tho' contrary to our usual Method, begin with the Affairs of *France*; [2] where Sir Robert Rouse, Governor of *Cherburgh*, having lately taken Sir Oliver de Guesclin, Brother to the Renowned Mareschal de Guesclin, Prisoner, and done many other notable Exploits against the *French*; and being now called home, Sir Robert Herleston was sent to supply his Place, who not long after his Arrival there, slew a great many of the *French* in a Fight, or rather Skirmish; and about the same time, Sir Hugh Calverly, who had behaved himself so gallantly in his Government at *Calais*, was also recalled, and he and Sir Thomas Piercy being made Admirals at Sea, went out with a Fleet, and took many Vessels richly laden from the *French* and *Spaniards*; and returning not long after from the Coast of *Bretagne*, they brought hither the good News, that the *Britains* were now highly exasperated against the *French* King's Government; for He had just before commanded them to surrender up all their strong Towns and Castles into his Hands, and such as refused, He order'd should be put to Death.

*Walsingham* [3] further tells us, That in the latter end of the last Year, King Charles assembled a Parliament at *Paris*, where, upon pain of Death, He forced the Noblemen of *Bretagne* that were there, to yield up to him the fortified Towns and Castles they held, whenever He should demand them; but instead of this, at their return home, they Mann'd and Victualled their Castles and Places of Strength; to reduce which, the King sent Mareschal de Guesclin with a good Army, which forced the *Britains* to retire out of the Country.

About [4] this time, likewise, Sir Hugh Calverly, and Sir Thomas Piercy, being still joyned in Commission to keep the Seas, sail'd with a great Force of Armed Men to the Coast of *Bretagne*, where they took seven Ships of Burthen, and one Man of War, and afterwards set on shore there a Party of Men, to plunder the Country; but they were all taken Prisoners by Sir Geoffry Cormel, a *British* Knight, that lay there in Ambush; tho' he commanded his Men not to kill any of them, but upon a safe Conduct from Sir Hugh Calverly, to deliver them all to him without any Ransom; and further informed him, that if he would Land there, it would much please the Lords, and Inhabitants of that Country, who were ready to deliver up to him their strong Towns and Castles, if he would remain there, for the Guard of the Country; but he excused himself, saying, he had other Matters to pursue, and could not at that time satisfy his Desires.

Then



Then [ 1 ] the Duke of *Bretagne*, who had been forced out of his own Country by his own Subjects, by the Assistance of the King of *France*, in the Time of *Edward the Third* (as you have already heard) and being now in *England*, made a strict League Offensive and Defensive, with King *Richard*; by which no Peace was to be made with *France*, but by mutual Consent, the Original of which remaining in the Old Chapter-house at *Westminster*, dated *March* the First, in the Year of Grace, 1379, at *Westminster*; I therefore refer you to it, as also to Mr. *Rymer's History of Leagues*, now shortly coming out.

Some time before this; on [ 2 ] the sixteenth of *February*, Writs were issued forth, for a Parliament to meet fifteen Days after *Easter*, at *Westminster*, in which the Lords and Commons, considering the great Necessities of the Kingdom, the Malice of its Enemies, of *France* and elsewhere, first agreed, That the Mark laid upon every Sack of *Wool*, and the Six-pence in the Pound for all Merchandize, which was given in the last Parliament at *Glocester*, should be remitted; [ 3 ] and instead thereof, granted the old Subsidy on *Wool* (as it had been before that Parliament) for one Year from the Feast of *St. Michael*; and likewise a certain *Poll-Tax* to be paid by divers Persons of the Kingdom, as are therein ordered and named, which being very long, I refer you to the Act it self, printed from the Original Record, N. 102. in Dr. *Brady's Appendix*; which deserves your Notice, because it contains all the several Degrees and Ranks of Laymen that were then in *England*, and how much each of them was to pay for his Poll; wherein, tho' the Dukes of *Lancaster* and *Bretagne* (that paid the highest to it) were rated but at Ten Pounds a piece, as Dukes, yet as Barons they paid Ten Marks a piece more; and this Tax is of a mixt Nature, for they were therein rated not only according to their Heads, but Estates, Trades, or other ways of getting their Livings; and that which was most severe was, That every Married Man for himself and his Wife, not having any Estates in Land, and being above the Age of Sixteen, except very Beggars, should pay a Groat: And every Man and Woman Unmarried, that had such Estates, were to pay as much, besides what they paid in another Capacity, for their Quality and Estates together; which Tax went very hard upon the meaner Sort, by the too severe exacting of it.

But besides what was now laid upon the Layety, [ 4 ] *Walsingham* tells us, That the Clergy also Taxed themselves very high, every Archbishop and Mitred Abbot as much as a Baron, viz. Six Marks a piece; and further, the Abbots were to pay Forty Pence for every Monk in their Monastery; all which together must needs amount to a vast Sum of Money, tho' how it was dispos'd of, is hard to tell; for we cannot find the Warlike Preparations either by Sea or Land, to have been at all proportionable to so great a Tax.

Little of Moment happen'd this Year in *England*, and therefore for want of other Matter, we shall relate somewhat of a more private Concern, since it gives us a singular Example of Honour and Fidelity. [ 5 ] You have already heard, that when *Robert Haulle* was murdered in the Church of *Westminster*, his Companion *John Shakel* was again committed to the Tower, for not delivering the young Earl of *Denia*; yet however he could not be induced to bring forth his Hostage, notwithstanding all the Extremities used upon him. But at last, on condition

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[ 1 ] *Id. ib.*  
The Duke of  
*Bretagne* being  
expelled, his  
Country ea-  
ter, into a  
new League  
offensive and  
defensive with  
K. *Richard*.

[ 2 ] *Rot. Claus.*  
2. *Rich.* 2. M.  
13. *Dors.*  
A Parliament  
summoned.

[ 3 ] *Rot. Parl.*  
2. *Rich.* N. 13.  
They remit  
the former  
Subsidy on  
*Wool*, and  
grant a less;  
together with  
a great *Poll-*  
*Tax* on all  
Persons, with  
an account  
what all sorts  
and degrees  
then paid.

[ 4 ] *Ad hunc*  
*An.*  
The Clergy  
also agree to  
grant this  
*Poll.*

[ 5 ] *Id. ib.*

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1379.

The Earl of  
*Denia* is de-  
livered up on  
Conditions,  
and is found  
in the disguise  
of a Servant.

dition that the King would give him Five Hundred Marks in Money, and also pay him a Pension of One Hundred Marks more during Life, he was content to discover his said Hostage, and deliver him into the King's Hands; which when done, the Discovery of the Prisoner struck all Men with great Admiration, for tho' the Young Earl might have been treated according to his Quality, had he discovered himself, yet he would not, but appear'd to the World in no other Habit than that of a meer Servant or Valet to his Keeper, under which unsuspected Disguise, he had lain long conceal'd in the Tower, ever since the Dispute about him. This is such a Noble Example of *Spanish* Honour, that it cannot be pass'd by, without Injury to his Vertue.

But to speak of some foreign Affairs of greater Moment, not long after this, [1] the *Britans* called home their Duke, who was Convo'y'd by Sir *Thomas Piercy*, and Sir *Hugh Calverly*, and landed at a Port near *St. Malo's*, on the Fourth Day of *August*, where, and in all other Places, he was welcom'd with high Congratulations, as well by the Lords and Gentlemen, as common People of that Dutchy.

[1] *Id. ib.*  
The *Bretans*  
call home  
their Duke,  
who is Con-  
voy'd by Sir  
*Hugh Calverly*  
and Sir *Thomas*  
*Piercy*.

[2] *Id. ib.*  
A great Mor-  
tality in the  
North of  
*England*.

This [2] Summer there happen'd a great Mortality in the *North* Parts of the Kingdom, whereby the Country became almost desolate: The *Scots* taking this Advantage, invaded the Borders, harrassed, robbed, and plundered the same, killing many of the People that were left alive, and driving away vast Numbers of Cattel, scarce leaving any thing behind them, not so much as a *Hog*, which they never drove away before.

[3] *Id. ib.*  
The K. sends  
a powerful  
Fleet and Ar-  
my to assist  
the Duke of  
*Bretagne*, but  
is disperſed by  
a Storm, and  
divers Ships  
lost, and Sir  
*John Arundel*  
drowned.

About [3] the Feast of *St. Nicholas*, or Sixth of *December*, this Year, the King sent a powerful Fleet, and an Army, to assist the Duke of *Bretagne*, against the King of *France*, (who still detain'd several of his Towns and Castles) this was to have pass'd into that Dukedom, under the Conduct of Sir *John Arundel*, Sir *Hugh Calverly*, Sir *Thomas Piercy*, and many other Knights and Esquires, all Veterane Soldiers; but so soon as they were out at Sea, there arose an horrible Storm, which scatter'd the Fleet, and drove them they knew not whither; Sir *John Arundel's* Ship was lost, and himself drowned, as likewise Twenty-five more, and above a Thousand Men; Sir *Thomas Piercy*, Sir *Hugh Calverly*, and Sir *William Elinham*, with others of Note, hardly escaping. This ill Success is ascribed, by my Author, to the Violence and Debauchery of Sir *John Arundel* and his Men, in Committing Sacrilege, and Ravishing several Nuns, not long before this fatal Accident.

[4] *Id. ib.*  
Several small  
Successes  
gained by the  
*English* in  
*France*.

I shall here also take Notice of some Actions perform'd Abroad, tho' of less Moment than those already related, since they make for the Honour of the Nation, and I shall do it as briefly as I can: Sir *John Herlston*, Governor of *Cherburgh*, being block'd up by the *French*, and very much streightned for want of Provisions, encouraged his Men boldly to sally out to fetch some in, and making an Incursion into the *French* Territories, there took a great Magazine of Victuals that were laid up in a Church, and in an adjoining Mill; but being in his return, met with Sir *William de Bourd* and his Forces, whom the *French* King had appointed to lie in *Mountbergh*, to watch the Motions of the *English*; Sir *John* and his Men being over matched; he was knockt down to the Ground, and lay for Dead, and had been taken, had he not been opportunely rescu'd by Sir *Geoffery Worsely*, who, with a strong  
Body



Body of Foot, was appointed to come to their Assistance, if there were *Anno Domini* Occasion; but upon his Arrival, the *French* were utterly Routed, and 1377. Sir *William de Bourd* himself taken Prisoner, with the loss of about Two Hundred Men, who either underwent the like Fortune, or else were slain out right.

But, to allay this good Success, [1] not long after, as several *English* small Vessels lay in a Port in *Bretagne*, certain *French* Gallies having Notice of it, came thither to set those Ships on Fire; and sending in one Galley to do the Execution, the rest being four more lay out of sight; now when Sir *John Clark*, Governor of a Castle that lay near the Haven, saw what was about to be done, he, and all the *English* in the Town, presently ran and put themselves aboard the Vessels, to save them from being burnt; upon which, the *French* Galley retreating as if it had been for fear, drew the *English* out of the Harbour to pursue her; but by so doing, they fell in, and were inclosed among the rest of the Gallies that lay without, with all which, the *English* Ships were forced to engage; yet Sir *John Clark* and his Men behaving themselves very gallantly, most part of his Vessels had time enough to run on Shore; but when Sir *John* himself thought to have done the same, he was Boarded, and cut over the Thigh with a Battle-Axe, and being there taken, he Dyed presently of his Wound, an *English* Vessel being at the same time sunk, together with the Enemies that had Boarded her.

Nor can I omit another gallant Action, [2] related by my Author to have been perform'd by Sir *Hugh Calverly*, upon his conveying the Duke of *Bretagne* into his Country (as hath been above related) and that is, that when he, with Sir *Thomas Piercy*, had just entered the Haven of *St. Malo's*, there arrived several *French* and *Spanish* Privateers, which falling upon many Ships of Burthen, that by reason of the narrowness of the Passage, lay still without; and could not enter the Port, they had been all taken by the Enemy, if Sir *Hugh*, to prevent this Loss and Disgrace, had not again expos'd his Person, and commanded the Master of his Ship (tho' against his Will) to go out, and make what Sail he could against those Pirates; and coming up with them, his Men charged so furiously with their Arrows, that he put them to Flight, and pursued them, until in the mean while all the Ships of Burthen had got safe into the Harbour, and then he return'd thither again. This was perform'd not only in the sight of the *English* and *Bretans* that were on the Shore, But also of the *Mareschal de Guesclin* himself, and the *French* Garison, which from the Walls of *St. Malo's* beheld what was done; his Enemies, as well as Friends, highly applauding his Valour, and the Honour of the Action.

But as this Noble Gentleman behaved himself bravely Abroad, so [3] certain *English* Merchants acted as basely at Home; for a Rich Merchant of *Genoua* coming lately into *England*, offer'd the King, that if he might have leave to build a Castle at *Southampton*, for the defence of the Harbour, and the securing of those Commodities he should there lay up, he would make that Place the most famous Port in *Europe* for all foreign Merchants, who would there Import all the Rich Commodities of the *East*, and Export those of *England* in Exchange: But certain Merchants of *London* being afraid that this Project would turn much to their Detriment, caused him to be murdered one Night,

[1] *Id. ib.*  
Several small *English* Vessels lying in a Port in *Bretagne*, are like to be fired by four *French* Gallies; but being endeavour'd to be saved by Sir *John Clark*, he is wounded, taken Prisoner, and dies on the spot.

Sir *H. Calverly* rescues divers *English* Ships from the *French* Privateers, with great hazard of his Person.

[3] *Id. ib.*  
Certain *English* Merchants privately murdered a *Genoueze*, for offering the King to fortify *Southampton* and make it a free Port for foreign Merchants.

*A.D.* 1380. as he return'd home, before the Door of his own Lodging; which wicked Action not only tended to the Damage of the Nation, but also rendred the *English* odious all over *Europe*, when they saw the Laws of Nations and Commerce so highly violated in this Kingdom.

As to Foreign Affairs, [1.] the Earl of *Flanders* having this Year impos'd certain High and Extraordinary Taxes upon his Subjects, they Rebell'd, and drove him out of the Country; nor could he be again Restor'd, until he had taken off those Taxes, and remov'd those Counsellors that advis'd him to lay them.

As for Ecclesiastical Matters, I find little Considerable, [2.] only that the Arch Bishop of *Cassels* being sent hither, as *Nuncio* from Pope *Urban*, with an extraordinary Power, so soon as he came to *London*, declared the King of *France* to be *Excommunicated* by the Pope, and then used the accustomed Artifice of exciting the King to Invade *France*, as being the fittest Opportunity for that Purpose. But about that time, the *French* King, to be even with his Holiness, issued out a Proclamation, that none under Pain of Death, and Confiscation of Goods, should dare to yield Obedience to the pretended Pope *Urban*.

Presently [3.] after *Christmass* the Earl of *Salisbury*, who had been for a Year last past Governor of *Calais*, return'd home, Sir *John Denros* an old Soldier succeeding in that Place. And about the same time, Sir *John Herlston* being discharged from his Command at *Cherburgh*, and Sir *William de Windsor*, a Valiant Knight, was made Governor in his stead. But to speak of Matters of a more Publick Concern. On the twentieth of *October* last past, the King had sent forth [4.] Writs for a Parliament to Meet on *Monday* next after *St. Hillary*, or the fourteenth of *January*, [5.] wherein the Commons by their Speaker, pray'd that the Prelates and other Lords of the King's standing Council might be discharged, and none such for the future to be retained, seeing the King was of good Discretion, and Stature, in respect of his Age, which agreed with the Age of his Grandfather at the time of his Coronation, who then had no other Counsellors, but the five Principal Officers of his Realm; praying further that those five Officers, viz. the Chancellor, Treasurer, Guardian of the Privy-Seal, Chief Chamberlain, and Steward of the Household, might not be Renewed, or Changed until the next Parliament.

They [6.] likewise pray'd a Commission might be issued out to certain Commissioners to Survey and Examine in all Courts and Places the State of the King's Household, the Expences and Receipts in all the Offices, &c. This was granted, and a Commission made to the Earls of *Arundel*, *Warwick* and *Stafford*, the Lords *Latimer*, *Brian*, and *Montacute*, with *John Hastings*, *John Gildesborough*, and *Edward Dalyngruge* Knights; and *William Walworth*, and *John Philpot*, Citizens of *London*, and *Thomas Graa* Citizen of *Tork*, with others, to Execute and Report the same.

Then [7.] the Lords and Commons perceiving that the King and Kingdom were surrounded with Enemies, who with great Force endeavour'd all they could, as well by Land as Sea, to destroy them both, and farther to extinguish the *English* Language; Therefore for the Defence and Safety of the Kingdom, and for the good



Success of the Expedition order'd into *Bretagne*, and destruction of the said Enemies, they Granted freely to the King one *Fifteenth* and an half, without the Cities and Burghs, and one *Tenth* and an half within those Places, with this Prayer, *That this Subsidy, and what was remaining of that given the last Parliament, might only be applied to the Expedition into Bretagne, and no where else.* Anno Dom. 1380.

And [1.] Considering also that the Subsidy of *Wools, Leather, and Woolfells*, was to end at *Michaelmas* next coming, and that from thence the King was not able to endure the great Charges He was to be at to maintain the War in the Marshes of *Calais, Brest, Cherburgh* in *Gascoigne, Ireland*, and the Marshes of *Scotland*, they Granted Him the same Subsidies, from the time they were to end, until *Michaelmas* come Twelvemonth, and withal praying the King that there might not be another Parliament called to Charge the poor Commons until a Year after that time. [2.] To which I must also add another Remarkable Transaction, omitted by Dr. Brady in his Account of this Parliament, That when the King and both Houses resolved to enlarge the Powers of the Justices of *Peace*, and that the Prelates and Clergy in their Convocation made an express Protestation against it, that it had not, nor should ever pass with their Consents. Answer was made on behalf of the King, That He would not forbear for their Protestations to make his Justices as He was wont, and by his Coronation Oath was oblig'd to do. From whence we may observe, that the Clergy Assembled in Convocation were not then looked upon as a distinct Estate of Parliament, as some Men have without any due grounds supposed.

[3.] *Walsingham* also further adds concerning this Parliament, That the Commonalty of the Kingdom then desired, that some one of the most discreet Barons might be Ordained to be about the King, who should be able to return fit Answers to Foreign Ministers; and therefore *Thomas Beauchamp* Earl of *Warwick*, being chosen by Common Assent, was appointed to remain continually with the King, and to Receive an Annual Pension for his Trouble and Charge. If this were so (for I find it in no other Author), the Duke of *Lancaster*, and the rest of the Bishops, Earls, and Barons, that had been appointed the King's Governors, were now laid aside, as having very much Exhausted the King's Treasure, without any considerable Benefit; and therefore they rather desired to have this single Noble-man serve, than so many.

In this Parliament also [4.] Sir *Richard le Scrope* surrendred his Office of Chancellor, and *Simon de Sudbury* Archbishop of *Canterbury* was put in his Place, which was counted a disparagement to his Archiepiscopal Dignity.

The rest of this Year passed over without any thing of Moment done in *England*, and therefore I must entertain the Reader with Matters of more Private Concern. Presently after [5.] *Easter*, the Lady *Jane* the King's half Sister, was Married with Great Solemnity to *Valeran* Earl of *St. Paul*, a young *French* Lord, on whom, whilst he was a Prisoner, she had settled her Affections; so that he was not only discharged without any Ransom, but the King bestowed upon the Bride, the Mannor of *Biesfleet* as a Dowry; tho' all this could not make this Nobleman to embrace the *English* Interest, as you will find hereafter.



Anno Dom.

1380.

[1.] *Id. ib.*  
A remarkable  
Duel between  
Sir John  
Annesly, and  
Tho. Katring-  
ton Esq; and  
on what Oc-  
casion.

I shall now give you an Account of a very Remarkable [1.] Duel or single Combat that happen'd this Year, which was perform'd on the seventh of June in the Palace-Yard at Westminster, the King being present, between Sir John Annesly Knight, and Thomas Katrington an Esquire, who was accused of Treason by the former, for delivering up the strong Fortrefs of St. Saviour in the Isle of Contantine to the French for a Sum of Money (as you have already heard) which being by him deny'd, and by the Challenger as positively affirm'd before the Lords, the Constable, and Marshal, a Battel ensued; in which (omitting unnecessary Circumstances, after a Tryal with Spears, Swords and Daggers) the Knight, tho' a far less Man, had the Advantage; yet when at last it so fell out that he had quite disarmed the Esquire, and thought to have graped with him, and sling him down, he missing his hold fell himself; whereupon, Katrington soon took the Advantage, and getting upon him, held him down, upon which the King presently Commanded that they should be taken up and parted: but the Matter did not end so, for the Knight going boldly up to the King, would not yield himself to be overcome, but earnestly desired that he and his Adversary might be placed in the same posture as they were before; but the Esquire being quite out of breath, and dispirited, was not in a Condition to accept of it; and being led between two, and placed in a Chair fell down in a Swoon; but coming again to himself, his Adversary presently calling him Traytor, Challenged him to renew the Combate a-fresh; but he not being able to look up, or make any Answer, the Victory was given on the Knight's side. [2.] And as for the Other, being carried to Bed, he fell Distracted, and died the next Day; or, as Fabian relates, he was on the Morrow drawn to Tyburn, and there hanged for the Treason, whereof, being vanquished, he was prov'd Guilty according to the Law of Arms: But to proceed to Foreign Affairs.

[2.] Katring-  
ton is van-  
quished, and  
dies distra-  
cted, or as  
others report,  
was Executed  
at Tyburn.

[3.] *Id. ib.*  
The Scots In-  
vade England,  
and Burn and  
Plunder the  
Country, and  
take away  
many Priso-  
ners from the  
Fair at Pen-  
reth.

The [3.] Scots toward the latter end of this Summer Invaded Cumberland, and Westmorland, Plundering, Killing and Burning where-ever they came, and driving away (as was reported) forty thousand Head of all sorts of Cattle, and going to Penreth, where was then a great Fair and Conflux of People, they killed some, carried away others Captive, and with them all the Goods of the Town and Fair. The Earl of Northumberland (who had sustained great Damage by this Incurfion) was preparing to drive them out of the Country and Borders, and to force them to make satisfaction in Scotland, when he received a Prohibition from the King not to act any thing, but to expect the March Day, which was a Day appointed for the English and Scots to meet every Year, and adjust things done by either Nation upon the Borders, and shortly after the Truce was again renewed.

[4.] *Id. ib.*  
The French  
Gallies Land  
in Suffex, and  
take and burn  
the Town of  
Winchelsey,  
and put the  
Abbot of Baile  
to flight.

This [4.] Summer the Gallies of France did much mischief upon the English Coast, and Landing in Suffex, they took and burnt the Town of Winchelsey, and when the Abbot of Battle-Abbey came thither with some Men to oppose them, they put them to flight, and kill'd some of the Monks that came Armed along with them. For the Earl of Arundel, who lived not far off, marching out with a very small Retinue, served rather to encourage these Pyrates, than repell them. And sometime after the late disaster of the Fleet under the Command



of Sir John Arundel [1] the Duke of Bretagne about *Whitsontide* sent *Amo Domini* again to the King for Assistance against the King of France; where-  
upon Thomas of Woodstock Earl of Buckingham as General, with  
the Earl of Stafford, Sir Thomas Piercy, and many Barons, Knights  
and Esquires of great Note and Skill in Arms, with a sufficient  
Army, were appointed and retained for this Expedition, who  
Landing at Calais on the Nineteenth of July, Marched from thence  
[2] into Bretagne thro' Champagne, and other Countries, by small  
Marches, to the great terror of the French, without any Resistance;  
wasting the Countries as they went along; staying two or three days,  
and sometimes more, at every good Town, Where they took up their  
Quarters; but when they came to Rennes in Bretagne, the Englishmen  
wonder'd they heard not from the Duke, according to the Promise he  
had made them just before, by certain Messengers he had sent on pur-  
pose; [3] wherefore the Earl sent Sir Thomas Piercy, and Sir Thomas  
Trivet to him, but they met him on the way coming to the Ear.  
When they were got together at Rennes, they resolv'd to [4.] Be-  
siege Nantes, as the most Obstinate and Rebellious Town in Bre-  
agne, and the Duke March'd to Assist the Earl in this Siege with his whole  
Force; but the English having remained fifteen Days at Rennes, to rest  
and prepare themselves for Action, went before the Town, which they  
within having had notice of, put themselves into a posture to receive them,  
having Monsieur John de Barres for their Governor, besides divers Valiant  
and experienc'd French Officers and Soldiers to join with them for the pre-  
serving of the Place. But tho' the English lay before Nantes two Months  
and four Days, yet they never heard of the Duke, nor his Men;  
[5.] wherefore seeing it in vain to Besiege the Town any longer, on  
the Morrow after New-years-Day they raised the Siege, and Marched  
towards Vannes wheré the Duke was, and there, and at several other  
Towns near upon the Coast of Bretagne the English were Quartered all  
Winter, the Earl's Intention being in the Spring to March into France,  
and therefore to that Purpose he sent into England for more Forces. The  
King and his Council approved of his Design, and engaged to send ano-  
ther Army to Land at Cherburgh in due time to support him; [6.] but  
it all came to nothing, for the Duke could not prevail with his No-  
bility to join Cordially with the English; wherefore seeing no other Re-  
medy he was fain some time before to send certain Commissioners to  
Paris to make Peace with the French King; who, being then very much  
afraid of the English Army, easily yielded to it upon these Articles.

First, It was agreed that the Duke of Bretagne should provide Ships to  
carry back the English into their own Country. Secondly, that the  
Garison of Cherburgh, which was with the Earl before Nantes, should,  
if they would, return thither by Land, and have safe Conduct.  
Thirdly, That after the Departure of the English, the Duke should  
go into France, and do his Homage and Fealty to the French King, as  
his Natural Lord.

Soon after this Agreement the Duke came to Vannes, and privately  
acquainted the Earl with it, excusing himself by reason of the obsti-  
nacy of the People, and that otherwise he must have lost his Country;  
so on the Eleventh of April, the [7.] Earl with the English Army  
and Fleet set Sail from Vannes, and other small Ports, and came for  
England, highly discontented with these Proceedings, as having lost a

[1.] Froiss.  
Vol. 2. c. 11.  
The Duke of  
Bretagne again  
Solicits the  
King for  
Assistance a-  
gainst France,  
who sends an  
Army to his  
assistance un-  
der the Com-  
mand of the  
Earl of Buck-  
ingham.  
[2.] Ib. cap.  
53, 54, 55.  
[3.] Ib. cap.  
59, 60.  
[4.] The En-  
glish Land and  
Besiege the  
City of Nantes,  
but not being  
assisted by the  
Duke, are  
forced to  
raise the  
Siege.  
[5.] C. 61, 62.  
The English  
March to  
Vannes, and  
are Quartered  
in Bretagne all  
Winter.  
[6.] The  
Duke not be-  
ing able to  
perswade his  
Nobility to  
join with the  
English, makes  
Peace with  
the French  
King on cer-  
tain Condi-  
tions.  
[7.] The Earl  
of Buckingham  
returns into  
England with  
his Forces,  
highly dis-  
contented.

*Anno Dom.* 1380. great many Men, and almost all their Horses, in this unfortunate Expedition ; and here [ 1 ] *Walsingham* does, not without Cause, bewail how much both the *Englishmen*, and *English* Treasure, were made Properties of, only to advance the Interest of a foreign Prince, who made use of them for no other end, but to make a separate Peace for his own Advantage ; and by that means the King lost the fairest Opportunity He ever had, of recovering what the King and his Grandfather had lost in *France*.

[ 2 ] *Frois.* And the rather, since [ 2 ] on the sixteenth of *September* (during this present Expedition) Died *Charles* the Fifth, King of *France*, called the *Wife* : On his Death-Bed he left the Regency to his youngest Brother the Duke of *Burgundy*, (his eldest Son *Charles* (now King) being then a Minor of about Eleven Years Old.) But to say somewhat further of this Deceased Prince ; He was certainly very Cautious and Cunning, doing greater things against his Enemies by Policies and Delays, than his Ancestors could ever obtain by open Force ; tho' it cannot be denied, but that after the Constable *de Guesclin* came to have his supreme Command in Military Affairs, it was owing to his Courage and Conduct, that *France* was restor'd to its former Power and Grandeur ; but

The Death of  
*Charles V. K.*  
of *France*, with  
his Character.

[ 3 ] *T. W.* he deceasing before the King his Master, [ 3 ] and the Duke of *Burgundy* being left Regent of the Kingdom, it begot that Hatred and Emulation between him and the Duke of *Anjou* his eldest Brother, which, had it not been for fear of the *English*, might have broke into an open War ; to which may likewise be added, that presently after the Coronation of the Young King, there arose a great Tumult and Sedition in *Paris*, against the new *Gabells*, or Taxes, that were then anew impos'd upon the People ; which not being able at present to be either resisted or appeased, was one great Reason, that there was no Army set out to resist the *English* ; so that at last, all the Means the great Men of the Kingdom had tried to appease the Fury of the People, proving in vain, the King, with his Counsellors, were forced to retire to Places of Strength ; the People of *Paris* in the mean while taking Arms, broke into the House of one of the principal Men of the City, and pulled it down to the Ground, as looking upon him to be the chief Author of all their late Oppressions ; and then ranging about the City without Controul, they fell upon and murdered as many of the *Genouezze* Mariners as they could light on ; for indeed, the late Taxes had been bestowed to pay and maintain them, to infest the *English*

[ 4 ] *Rot. Parl.* Coasts with Piracy and Invasions.  
4. *Rich.* 2. *N.* But to return to the Affairs of *England* : The King again wanting Money to maintain the War against *France*, [ 4 ] the next Day after the Feast of *All-Saints*, there was a Parliament holden at *Northampton*, which was adjourned until *Thursday* following, at which time the Arch-Bishop of *Canterbury*, then Chancellor, (though many Temporal Lords were absent in the Marches of *Scotland*, with the Duke of *Lancaster*) declared to all there present, the Causes of their Meeting ; saying, that it could not be unknown to them, that the Earl of *Buckingham* had been sent over into *France*, with an Army that had cost the King more than was given Him last Parliament ; besides, the late Expedition into *Scotland*, the Defence of *Guienne*, and his Charge in *Ireland*, had put Him to so great Expences, that He had been forced to pawn his Jewels, the Subsidy of *Wools* coming to little, by reason

great charges.

Vol. III.

of



of the present Disturbances in *Flanders*, that the Soldiers in the Marches of *Calais*, at *Brest*, and *Cherburgh*, were in Arrear more than Three Months, and they were afraid, that they might desert for want of their Pay; that they were to consider the King was mightily in Debt; that He was bound, by Covenant and Indenture, to pay the Earl of *Buckingham*, and Others in that Expedition, for another half Year, which was near ended; and that the King was to be at a very great Charge for Guarding the Coasts; and lastly, desired them to advise the King, how this Charge might be born with the most Ease, and the Kingdom best defended against all its Enemies, both by Sea and Land, in as short time as they could.

When [1] the Commons had treated one Day about their Charge, they returned to the Lords, and in the Presence of the King, Prelates, and Peers, Sir *John Gildesburgh*, Knight, their Speaker, demanded a more clear Declaration of what had been said to them, and especially what Sum was demanded to support the Charge, praying no more might be required than was necessary, for that the Commons were poor, and of small Estate to bear so great a Charge any longer; [2] whereupon, a Schedule was delivered in by the King's great Officers and Council, containing the Sums necessary, which amounted to One Hundred and Sixty Thousand Pounds Sterling.

The [3] Commons further pray'd the King and Lords, since they thought the Sum demanded was too much, and indeed insupportable, that they would use such Moderation, as nothing might be demanded, but what was to be born, and was absolutely for the Causes above set forth: And further they pray'd, That the Prelates and Lords would treat by themselves about the Matter, and propound the Ways by which any such Sum might be Levied and Collected.

After [4] the Lords had advised about the Matter, they caused the Commons to come before them, and told them what they had thought on: *First*, That a certain Sum of so many Groats, might be paid by every Person of the Kingdom, both Males and Females, the more sufficient to help the less sufficient: *Secondly*, If that pleased not, to have an Imposition upon all manner of Merchandizes bought and sold throughout the Realm, for a certain Term, every time they should be sold, to be paid by the Vendor: And *Thirdly*, Their Advice was, to raise a certain Sum by *Tenths* and *Fifteenths*; but because the last was very grievous to the poor Commons, and that it could not be known to what Sum it would rise, nor by what time the other ways could be expedited, therefore the Lords pitched upon the Groats, and propounded Four or Five to be Levied upon every Person as above, so as the most able might be constrained to assist the less able, this way of Tallage seeming to them the best and most easie.

The [5] Commons, when they had a long time treated upon the manner of the Levy, came into full Parliament, and made Protestation, they came not to grant any thing that Day; but they thought, if the Clergy would support a third part of the Charge, they would grant One Hundred Thousand Pounds, to be raised by a certain number of Groats, so as the Layety might pay One Hundred Thousand Marks, and the Clergy Fifty Thousand, for that they possessed a third part of the Kingdom, and pray'd the King and Temporal Lords to move it to them, speedily to resolve and take upon them the Charge.

[1] *ib. N. 10.*  
The Commons by their Speaker desire a more clear Declaration, of what was expected from them.

[2] *ib. N. 11.*  
The King's Council demand  
160000*l.*

[3] *ib. N. 12.*  
The Commons desire a Mitigation of the Sum demanded.

[4] *ib. N. 13.*  
The Lords propose another Poll-Tax; with an Imposition upon all Merchandizes.

[5] *ib. N. 14.*  
The Commons demand, that the Clergy should contribute a third part of the Charge, since they possessed a third of the Revenues of the Kingdom.

*Anna Dom.*  
1380.

[1] *b. N. 14.*

Which the  
Clergy refuse  
to do, and  
give their  
Reasons to the  
contrary.

[2] *ib. N. 15.*

The Lords  
and Commons  
agree to set  
3 Groats upon  
every Head.

No Member  
of Parliament  
to be Collect-  
ors of this  
Money.

[3] *T. W.*  
The Duke of  
*Lancaster*

makes an in-  
glorious Ex-  
pedition into  
*Scotland*; and  
another Truce  
is made be-  
tween the two  
Kingdoms.

*Anno Dom.*  
1381.

[4] *Id. ad*  
*Eunc. An.*

The Bishop of  
*Exeter* is dis-  
missed from  
being Treasu-  
rer, and Sir  
*Robert Hales*  
put in his  
Place.

Several Insur-  
rections, in  
divers Parts of  
the Kingdom,  
and on what  
occasion.

[5] *H. K.*  
*Col. 2633.*

To [1] which the Clergy replied, *That their Grants were never made in Parliament, nor ought to be*; and that the Laymen neither ought nor could constrain them in that Case, and claim'd the *Liberty of the Church*, which it had ever enjoy'd before that time; and desired the Commons might be charged to do what they ought, and were bound to do, and they would do in the present Necessity, as they had done before.

At [1] last the Lords and Commons agreed to give Three Groats of every Person in the Kingdom, Males and Females, of the Age of Fifteen Years, of what Condition and Estate soever, except very Beggars; the sufficient People in every Town to contribute to the Assistance of the lcs able; so as none paid above Sixty Groats, including those for himself and his Wife; the whole to be for the Support of the Earl of *Buckingham*, and the other Lords and People with him in *Bretagne*, and for Defence of the Kingdom, and Safe-guard of the Sea: Two Parts to be paid Fifteen Days after St. *Hillary*, and the other at *Whitsunday* next after. No Knight, Citizen, or Burgefs of this Parliament, were to be Collectors of this Money, but that the King would order thro' the Kingdom, such as should equally Levy it, according to the Meaning of this Grant,

So sensible was the Parliament, even then, of the great Partiality of their own Members in Collecting of this Tax, that they would not trust themselves with it.

I shall conclude this present Year, with the inglorious Expedition which the Duke [3] of *Lancaster* made about *Michaelmas* last towards *Scotland*, when accompanied by the Earls of *Warwick*, *Stafford*, and other Great Lords and Soldiers, that made in all a great Army; These Marching into the Northern Parts, to call the *Scots* to an Account for their late Depredations in *England*, they were so fright'ned at their great Preparations, that they presently began to treat with the Duke, in order to conclude a Truce for half a Year; but they were so far from making any Satisfaction for the Injuries they had Committed, that the poor Inhabitants of those Parts suffer'd as much by the *English* Army, as they had done before from the *Scottish* Irruption; so that all which was gain'd for above Eleven Thousand Mark's Expence, was no more but some Horses which the Soldiers plunder'd from the *Scots*, and divided among themselves.

In the beginning of the Year, [4] presently after *Christmas*, there was a great Council held at *London*, in which *Thomas Brantingham*, Bishop of *Exeter*, was dismissed from being Treasurer, and Sir *Robert Hales* (Master of the Knight's Hospitallers) was put in his Place, a Worthy and Valiant Person, who yet did not please the Commons, any more than the late Poll-Tax.

For in the latter end of *May*, there happen'd several dangerous Insurrections and Rebellions in divers Parts of the Kingdom, which some of our Monkish Writers, tho' falsely, attributed to the Doctrines and Followers of *Wickliff*, which now began to spread among the common People; whereas there is no such thing to be found among those Tenets of his, which we find to have been lately Condemned; [5] but others more truly attribute it to the over severe Collection of the late *Poll-Money*, which, some of the King's Officers complain'd, had not been duely Collected as it ought; whereupon, one *John Leg*, and

Three



Three of his Associates, obtained a Commission to inspect and review the late Levy, bargaining to pay the King a great Sum of Money for the same : But indeed, on that pretence they committed horrible Oppressions, Exactions, and Insolencies, in divers Parts, especially in *Kent, Essex, Norfolk*, and the adjacent Counties ; with which the common People, being at last highly Incensed, and joining with the Villains or *Bondmen*, fell first into a Mutiny, and afterwards into open Rebellion ; nor is it less Disputable, where it first began, whether in *Kent* or *Essex*, tho' (as [1] *Walsingham* and *Knighton* relate) it was first in the former ; who also mentions one *Thomas a Baker*, of *Fobhings*, that taking Courage, got together some of his own Town, and those again drew in others of his Neighbours, to resist the Poll-Tax Gatherers, some of whom had been so Insolent, as to turn up certain young Girls, to see if they were of Age sufficient to pay or not ; which insolent Carriage so provok'd one call'd (from his Trade) *Wat a Tyler* of *Debtford*, in *Kent*, whose Daughter had been served in that manner, that he not only beat out the Collector's Brains with his Lathing-Hammer, but, to avoid Punishment, drew together the Rabble, and incensed them (who were too ready of themselves) into a most desperate Rebellion. Then great Multitudes being got together, broke open the Goal of *Maidstone*, where one *John Balle*, a factious Priest then a Prisoner, having gain'd his Liberty, marched along with them, and they growing still more Numerous (some write near One Hundred Thousand strong) came to *Black-heath*, where he made a seditious Preachment to them, taking for his Text, or Theme, this common Proverb ;

**When Adam Delb'd, and Eve Span,  
Who was then a Gentleman :**

From [2] which Proverb, or Saying, he endeavour'd to prove, That, by Descent from Adam, all Men were of one Condition ; that Servitude was introduced by the unjust Oppression of Wicked Men, contrary to the Will of GOD, who, if He had pleased to have created Slaves or Bondmen, would have appointed who should have been Servants, and who Lords and Masters ; therefore they should consider, that now there was an Opportunity offer'd them by GOD, in which (casting off the tedious Yoke of Servitude) they might enjoy their long desired Liberty.

This Doctrine was highly applauded by the Rabble, who thus animated by their Multitudes, and holding Correspondence with others as Mad as themselves, in *Essex* and other Counties, they take up Arms, and stopping all Passengers they met with, making them Swear to be true to King *Richard*, and to the Commons, and never to own any King that should be called *John*, which they did out of spite to the Duke of *Lancaster*, against whom they had an implacable Malice.

Then [3] the *Essex* and *Kentish* Men being join'd, made up a vast Body of near One Hundred Thousand, chiefly consisting of Villains, Bond-Tenants, Country Clowns, or such as were in Debt, and knew not how to satisfy their Creditors, and Criminals, who were afraid of the severity of the Law ; and these being headed by *Wat Tyler*, on the twelfth of *June*, marched up as far as *Black-Heath*, and

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The Insurrection in Kent begun by one Thomas a Baker and Wat Tyler.

The Mob break open the Goal at Maidstone, are excited by John Balle a Priest, who preaches to them against all difference of Quality or Degrees.

They take Arms, and force all Passengers to swear to be true to them.

[3.] Ibid. The Clowns of Essex and Kent making about 100000 Men, march up to Black-Heath, and cut off the Heads of all the Lawyers they can light on.

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[1.] The King sends to them to know the Reason of their Rising, to which they send a lawcy Answer.

[2.] They March into Southwark, and break open the Prisons, and then enter the City it self.

[3.] *Id. ib.*  
*H. K. Col.*  
2635.  
They go to the Savoy, and burn it to the ground, and destroy all the Rich Furniture, but will permit none to take any thing away.

[4.] *Id. ib.*

[5.] *Id. ib.*  
They return by the Temple, and destroy all the Lawyers Lodgings, with their Books.

there lay Excamped; their Pretences were Liberty, and the changing the Evil Laws and Customs of the Nation; for before they had come up, as well as after, they (being excited thereto by *Balle* their Preacher) cut off the Heads of all the Lawyers great and small, and all that had any Offices in the Law, or relation to it, wherever they could find them; for that (as they said) the People could not enjoy true Liberty until they were destroyed. [1.] Thereupon the King sent to them to know the Reason of this Commotion, and the gathering together of such Multitudes. They told the Messengers they were met to speak with the King about certain Matters, and Order'd them to go back, and let Him know that He must come to them, and hear what they had to desire. Some about the King perswaded Him to go forthwith, but the Archbishop of *Canterbury*, and Sir *Robert Hales*, Prior of *St. Johns* of *Jerusalem*, and then Lord Treasurer, earnestly dissuaded Him from it, moving Him rather to think of suppressing, than going to speak with such an unruly Rabble. Of which these Rude People having notice, they threat'ned to cut off their Heads; and forthwith Marching towards *London*, came into [2.] *Southwark*, where they pulled down Houses, broke open the King's Prisons, and let forth the Prisoners, who join'd with them. The Bridge-Gate was at first shut against them, but by the Assistance of their Friends of the meaner sort in the City, and by their Menaces and Threatnings if they had not free passage into it, the Gates were opened, and they passed, backwards and forwards, into, and out of the City as they pleased, giving out they came only to search for Traytors to the Kingdom, and at that time paid for what they call'd for, which got them Reputation with the Common People, insomuch that a great many then join'd with them.

[3.] Next Day being the thirteenth of *June*, they Marched thro' the City to the *Savoy*, then the Duke of *Lancaster's* Palace (whom they called *Traytor*, and hated above all Men) this they burnt and beat down, and destroyed all the Rich Furniture, throwing his Gold and Jewels into the *Thames*, as likewise all his Plate; first breaking it into small Pieces, and made it by Proclamation Capital for any one to retain any thing to his own use, that belonged to him; that so they might shew the People what they did was not out of Covetousness. And as an Instance of this, [4.] when one of their Fellows was espy'd to thrust a piece of Plate into his Bosom, they presently flung both it and him into the Fire, saying, *They came not like Thieves, to enrich themselves with Plunder*. But as to Good Liquor they were not so scrupulous; for two and thirty of them being got into the Duke's Wine-Cellar, they Tipped so long, 'till the Rafters of the House being on Fire, fell down, and stopped up the Passage that they could not get out, but were heard to cry there seven days after, and so perish'd unpitied. But to proceed with the Actions of these Rebels.

From [5.] the *Savoy* they came back to the *Temple*, which was (as now) the Abode of the Lawyers, and burnt their Lodgings, Books, Papers, and all Records that were there kept. From this Place they went to *Clerken-well*, where they destroy'd all the Goods in the Hospital of *St. John*, and set fire on that Magnificent Building. They then divided themselves into Three Bodies, one of which being

Headed

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Headed by another Captain, call'd *Jack Straw*, went to [1.] *Heybury-Mannor*, belonging to the Master of *St. John's Hospital* near *London*, where they were busied in destroying and plundering all the Goods belonging to it, and pulling down a Noble House that stood there. A Second Body of them, who were most of *Essex*, and the Counties adjoining, lodg'd themselves upon *Mile-End-Green*; and a third about *St. Katharines*, and *Tower-Hill*.

Next [2.] Day being *Friday, June* the fourteenth, the King, in hopes to appease them, with several Noblemen went to *Mile-End-Green*, and there told them *He was their King*; and ask'd those People (being about Sixty Thousand) *what they would have*? they Answer'd, They desir'd that He would make them Free, for themselves, their Heirs, and Lands for ever, and that they might not be called or reputed Bondmen. The King Granted their Desire, on Condition they would return home, and leave two or three of every Parish or Town, to stay and bring with them their Charters of Freedom, Sealed with the Great Seal, which were for the Manumission and setting Free all his Liege Subjects from all Bondage, with a Pardon to them of all Treasons, Felonies, Transgressions, &c. that had been done by any of them, with other things needless to be recited, for which I refer you to my [3.] Author, who hath expressed them *Verbatim*. These Charters being dispatched with all the speed that might be, most of the *Essex* Men return'd home to their own Countries.

Yet [4.] all this did not satisfie *Wat Tyler*, with his *Kentish* Rable, who had placed themselves on *Tower-Hill*, and about *St. Katharines*, and in the mean while went into the *Tower*, where the Terror of this Rude Multitude was so great, that the Gates being open'd to them without Resistance (tho' there were in it Six Hundred Archers, and as many Men at Arms) they durst not take notice, or so much as stop any of those People, who went in, and came out at their pleasure; so that from thence they seized and hurried away the Archbishop of *Canterbury* Lord Chancellor, Sir *Robert Hales* Lord Treasurer, *John Leg*, one of the King's Serjeants at Arms, and a *Franciscan Fryar*, (only because he was intimate with the Duke of *Lancaster*) and upon *Tower-Hill* cut off their Heads. [5.] After this, they went into the City, and cut off the Heads of many *Englishmen*, to whom they had any aversion; and among the rest, they dispatch'd that Famous Merchant *Richard Lyons*, so often mention'd, whose Head they set upon a Lance; and their hatred to the *Flemings* was so great, that they drew out of the Church of the *Augustin Fryars* Thirteen of them, and out of other Churches Seventeen more, and cut off their Heads in the Streets (that being their only way of Murder) with mighty Shouts and Rejoycing.

The [6.] Fifteenth of *June* they did as they had done the day before, cut off several Heads, pull down and burn divers Houses; wherefore the [7.] King, to put a stop to further Mischiefs, sent to them to let them know that their Companions at *Mile-end-Green*, upon their receiving Charters of Freedom, were separated, and gone home to live quietly, with an offer to them of the like Charters, if they would accept them. Then *Wat Tyler* their Ringleader Replied, *He would embrace Peace, if he liked the Conditions*; thinking by this means to have delay'd the King and Council, so as that Night he

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[1.] They divide themselves into three Bodies, one whereof goes and destroys *Heybury Mannor*, whilst they possess themselves of *Mile-End-Green*, & *St. Katharines*.

[2.] *Frois.* c. 86. The King with several Noblemen goes to *Mile-End-Green* to appease the People, and there grants them a Charter of Manumission.

[3.] *T. Wal.*

[4.] *Wat Tyler* and his Men seize the *Tower*, and take the Arch Bishop of *Canterbury*, and Sir *Rob. Hales*, &c. and cut off their Heads.

H. K. ib. [5.] They cut off the Heads of several *Englishmen*, and Foreigners, and 13 Fryers.

[6.] They continue to cut off Heads, and pull down Houses.

[7.] *Frois. ib.* T. W.

The King sends to those under *Wat Tyler*, to offer them the same Terms with the *Essex* Men. *Wat Tyler* finds fault with several Charters of Pardon that are sent them.

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[1.] The King sends to *Wat* to come and treat with him, and at last meets him in *Smithfield*.

[2.] H. K. *ib.* T. W. *ib.*

He makes the King's Messenger alight from his Horse.

[3.] H. K. *ib.*

[4.] The insolent Demands of *Wat* Tyler.

[5.] The King being encouraged by *John Philpot*, Commands the Lord Mayor to Arrest *Wat* Tyler at the Head of his Men, which he does, by striking him with his Dagger.

[6.] T. W. He falls down dead from his Horse, at which the Rabble are at first much incensed, but soon pacified by the King's Wife and sudden speech to them.

[7.] *Id. ib.*

They follow the King towards *St. George's-fields*,

till Sir *Robert Knolles* bringing a strong Party of Armed Men, makes them fling down their Arms, and beg pardon.

might have put his Design in Execution, which was to kill the King, and all the great Men that adhered to Him, to have pillaged, plundered, and burnt the City, (believing all the meaner sort of People were with Him) so tho' there were three several Charters sent, yet none pleased him. [1.] The King at last sent a Knight to him, that he should come and Treat with Him, about the Articles insisted upon to have inserted in the Charter; and when the Messenger desir'd him to make hast, *he bid him, if he were so much in haste, to go and tell the King his Master he would come when he saw his own time.* However, he follow'd on Horseback, but slowly, for the greater State of the business.

And [2.] being come near the King, the same Knight was sent again to Him, to receive and bring back Proposals. *Tyler* was offended, because this Messenger came to him mounted, and told him, it became him to alight from his Horse in his presence, and therewith

drew out his Dagger to strike him: [3.] Then the King coming

up to pacify him, made his Messenger alight. The [4.] Demands

which *Tyler* made, besides a General Enfranchizement of the Bond-

Men, (which the King had already Granted) were, that all Warrens,

Parks and Chases should be made Free and Common to all, so that as

well the Poor as Rich should have Liberty to Fish, Fowl, and Hunt

in all Places throughout the Kingdom, with several other the like ex-

travagant Demands; at which the King making some demur, the

*Tyler* behaved himself so insolently, that those who were about the

King could not but represent to His Majesty that it was insufferable,

and the before Celebrated [5.] *John Philpot*, (according to his usual

Courage). told the King that if His Majesty would but Command His

Lieutenant, *viz.* the Mayor, to Arrest the Traytor, he would lose

his Life if it were not happily accomplish'd. Whereupon the King

was prevail'd with to give such a Command to *William Walworth*,

then Mayor of *London*, who waiting an Opportunity, and observing

*Tyler* to play with his Dagger, shifting it from one hand to the other,

as if he meant some mischief, and that at last (to what intent is not

known, whether out of rudeness or design) he laid one of his hands

upon the King's Bridle, fearing the *Russian* might attempt His Royal

Person, he instantly executed his Arrest, by giving him a blow on the

Head with his Dagger, which was seconded by *Philpot's* Sword, and

another Esquire's into his Body, so that immediately he fell down

dead from his Horse to the ground. [6.] When the Rabble saw

this, they began furiously to cry out, *Oh! our Captain is Slain, our*

*Captain is Murthered, let's Revenge the Death of our Captain, &c.* But

the King with a Courage and Ingenuity beyond His Years (for He

was not yet above Fifteen) clapt Spurs to His Horse, and rode to the

Head of them, crying aloud, *What mean you, my Lieges? what would*

*you do? Would you Shoot your King? Come, you shall have no Cause to*

*grieve for the Death of this Traytor, I will be your Captain and Leader,*

*follow me into the Field, and you shall have whatever you desire.*

Upon [7.] which words being amazed, and not certain of one

another's minds, nor indeed each Man of his own, they followed Him

towards *St. George's-fields*, till Sir *Robert Knolles* with a Thousand

Armed Men raised in the mean time by the Mayor, came upon them

out of the City; at whose approach (being now Headless, and all in

confusion) they were so terrified, that they forthwith flung down

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what Arms they had, and beg'd for Mercy, which the King Granted, *Anno Dom.* and withal gave them a Charter of Freedom in Form as before recited, 1381. but Proclaim'd that no Citizen should have any Correspondence with them, nor suffer them to come within the Liberties. Then the Military Men about the King asked his Permission to serve the Rebels, as they had served others, to cut off an hundred or two of their Heads, but [1.] He would not consent to that, least the Innocent might suffer with the Guilty, for many had been drawn in by Fear, and such Fair pretences as they could not know to be false, and He did believe they might become Good and Loyal Subjects to Him, so He sent them the like Charter He had Granted to those of *Essex*, and other Counties.

At [2.] the very same time, the Townsmen of *St. Albans*, and Country Rusticks, with the Villains belonging to that Abbey, and the Clowns of *Hertfordshire*, and the Countries adjoining, met altogether at *St. Albans*, requiring of the Abbot and Convent to be Manumised, and made Free, to have the Liberties of the Town enlarged, and to have a certain Charter of Privileges and Liberties Granted by King *Henry* the Third to that Town, restored to them; which by the King's Order (not being then able to do otherwise) was Commanded to be deliver'd: But that not being to be found, they threatned to Burn the Abbey down to the ground, notwithstanding they had received before from the Abbot and Convent Letters of Manumission and Freedom, as dictated by themselves. They were besides so Wicked and Cruel, that they [3.] cut off the Heads of all such as they thought were their Enemies, or would not joyn with them, and burnt or pulled down their Houses, and destroyed their Goods, following and performing in all things the Dictates and Orders of their Great Ringleader *Wat Tyler*, which they had lately received from him, and seen practised in *London* on *Corpus-Christi-Day*, many of these Villains and Rusticks, and *St. Alban's-Men*, being then there; *William Gryndecobbe* a Servant to the Abbey, and *William Cadyndon*, a Chandler in the Town of *St. Albans* were the Chief Ringleaders in this Tumult, who had received their Instructions as above, at *London*; there they made [4.] Proclamation for all of their own Condition to come into them, with such Arms and Weapons as they had, under pain of losing their Heads, and having their Houses burnt (if they had any) besides the Loss of all their Goods: These they caused to enter into an Oath, that they would adhere to King *Richard*, and the true *Commons* of *England*, wherever they came; than they broke open all the Prisons, and set the Prisoners at Liberty.

While [5.] they were in the heighth of these Villanous Practices, they received News of the Death of *Wat Tyler*, and that the Citizens of *London* had joined with the King against the *Kentish* and *Essex* Rebels; and upon this some Messengers were sent from the King to make Proclamation, Commanding them upon forfeiture of Life and Member to be quiet, and return to their own Homes. At this they were somewhat humbled, which made them abstain from other more Barbarous and Outrageous Actions; yet they still kept together and would not separate, how much soever they were persuaded to it, using their ordinary Practices against the said Abbots and Monks, tho' they had then obtain'd the Kings Writ or

[1.] Yet the King would not permit any of them to be kill'd.

[2.] *Id. ib.* The Towns-Men of *St. Albans* join with the Clowns of *Hertfordshire*, and demand their Freedom of the Abbot, and threaten to burn the Abbey.

[3.] They cut off the Heads of several whom they thought to be their Enemies, and burn their Houses.

[4.] They make Proclamation for all of their Condition to come into them, or else to have their Houses burnt. &c.

[5.] *Id. ib.* They receive the news of the Death of *Wat Tyler*, and that the City of *London* had declared for the King, which puts some stop to their Fury, yet they still pretend the King's Authority for what they had done.

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The King is forced to send his Writs to the Sheriffs, &c. to make Proclamation to the contrary.

Letters of Protection for their Persons and Goods, but to little purpose, for these Rebels pretended they had the Kings Consent, Order and Authority for whatever they did; which caused Him, to undeceive the People, to send his Writs to all Sheriffs, Mayors, Bailiffs, and others his Faithful Subjects, to make Proclamation to the contrary, with Orders to oppose them every where in their Tumultuous Risings and Actings against the Peace, Commanding them to desist from such Assemblings and go home: This did bear Date at *London*, *June* the Seventeenth. To conclude, the Abbots and Monks were forc'd to Grant a Charter by their Common Seal to the Towns-Men of *St. Albans*, and the Villains belonging to the said Abbey, before they would be quiet, or obey the King's Writ of Protection lately sent down.

[1] *Id. ib.*

The same sort of People rise in *Suffolk*, under *Jack Straw* and pulling down the Houses of the Lawyers, cut off the Head of Sir *John Cavendish*, the Lord Chief Justice, and set it on the Pillory, at *St. Edmundsbury*.

And to let you see that the like Rebellious Humours had also seized divers other Countries. [1] on the same Day, *viz*, the Thirtieth of *June*, the same sort of People, to the number of about Fifty Thousand, arose in *Suffolk*, under the Conduct of *John Straw*, a wicked Priest, who having received Instructions from *Wat Tyler* at *London*, acted the same Villanies, and committed the same Insolencies, as in other Places: for they pulled down and destroyed the Houses of the most considerable Lawyers, and killed the Owners, not sparing Sir *John Cavendish*, Lord Chief Justice of *England*, whose Head they cut off, and set upon the Pillory of the Town of *St. Edmundsbury*, with those of *John of Cambridge*, and *de Lankinbeath*, Monks of that Abbey; and here they caused to be delivered into their Hands, the Charters of Liberties and Priviledges granted to that Abbey, to free the Towns-men from the Power and Jurisdiction of that Place, which, tho' done by the immediate Threatnings and Force of the Country People, yet under-hand proceeded from the Instigation of the Towns-men, who durst not be seen in it themselves.

[2.] *Id. ib.*

The Rabble in *Norfolk* rise under *John Linister*, a Dyer in *Norwich*, and compel the Lord *Scales*, and several other Knights, to joyn with 'em, which they are forced to do for their own Safety.

In [2] *Norfolk* also, much about the same time, a vast number of such like People, under the Conduct of *John Littister*, a Dyer of *Norfolk*, took upon them the same Pretences, and followed them in all their Actions: These compelled the Lord *Scales*, Sir *Will. Morley*, Sir *John Brewes*, Sir *Stephen Hales*, and Sir *Robert de Salle*, to remain with them, who were fain, for their own Security, to do and allow, whatever they did require or expect; but Sir *Robert de Salle*, who publickly condemned and abhorred their Actions, had his Brains knocked out, for his ill-timed Honesty, by one of his own Villains; whereupon, the rest seeing they must either lose their Lives, or dissemble, chose rather to comply with the latter, and carried it so cunningly, that they became *Littister's* Favourites, who now stiled himself King of the Commons, and had (what were called) his Royal Officers, amongst whom Sir *Stephen Hales* was his Carver. At length, these Rebels, whether they were tired out, or else repented of what they had so wickedly engaged in and done, or rather considered what they were like to suffer for it; they sent two of the said Knights, *viz*, Sir *William Morley*, and Sir *John Brewes*, with three of their own number, in whom they placed their greatest Confidence, to the King, to obtain a Charter of Manumission and Pardon, for what was passed; and that it might be more large than the Charters granted to other Counties; they also sent by them a great Sum of Money, which had been received of the Citizens of *Norwich*, to preserve their City from Burning,

The Rebels send 2 Knights to the King, to desire a Charter of Manumission and Pardon, for what they had done.



Burning, Slaughter, and Plundering, that they might thereby obtain what they desired. *Anno Dom. 1381.*

But [1] *Henry Spencer*, Bishop of *Norwich*, who was then in *Rutlandshire*, hearing of this Insurrection in *Norfolk*, was coming thither, with Eight Lances only, and a few Archers; but at *Icklingham*, near *Barton-Mills*, he met with these Two Knights above-mentioned, and their Three Companions, going to the King; and watching his Opportunity, he laid hold on the Three Traytors, and presently caused their Heads to be cut off, and set up at *New-market*; and then went forward into *Norfolk*, where many Knights and Gentlemen came in, and marched with him to *North-Walsham*; but there the Rebels lay strongly intrenched, yet with those few Forces he had with him, (tho' he was the first Man that charged the Enemy) he assaulted their Trenches, and won the Ditch: The Fight was very sharp for a while; but the Rabble soon fled, and in their pursuit many of them were killed; but *Littister*, and the chief Promoters of this Rebellion, being taken, they were drawn and quartered, with many others, thro' the whole County, by which means it was again reduced into a peaceable Condition. *Knighton* says, this Martial Bishop did the same thing in *Cambridge* and *Huntington-Shires*; and 'tis very probable, he also subjected those of *Bury St. Edmunds*, and the whole Country of *Suffolk* (being part of his Diocese) into good Order.

[1] *ib. id.*  
The Bishop of *Norwich* going towards *Norfolk*, meets the Messengers sent by the Rebels, and causes them to lose their Heads, and then marches against the rest, and puts them to the Rout. He executes *Littister*, and the chief Promoters of the Rebellion.

Yet, [2] notwithstanding the Defeat of these Rebels, and the King's Proclamation, for resisting them (as hath been already mention'd) the *Rusticks* in *Essex* got together again from their Recesses, though in less Numbers than before, at *Billeric*, a Village near *Hatfield*, where they resolved either to enjoy their extorted Liberty, or to die fighting for it; so taking fresh Courage, they sent certain Messengers of their own Body to the King, lying then at *Waltham*, to know if He would permit them to enjoy the Liberty already granted them; and farther required to be equal to their Lords as to that point; nor would they be compelled to appear at any Courts, except those of *Frank-Pledge*, twice in the Year. The King, and his Council that was there with Him, were at first much surprized, at the fresh Insolence of these Rebels; but after some Deliberation, the King gave them an Answer, with his own Mouth, That had not they come to Him as Messengers, they should have been hanged; but seeing they did, He would spare them on that Account; but bad them return to their Companions, and let them know, that as they had been born *Villains*, so they should remain in the same Servitude, or rather worse; and that He would do his utmost, during his Life and Reign, so to keep them, that they may be an Example to Posterity, and a warning to themselves and others, not to offend in the like manner; and then He bid them go home, and live quietly in his Allegiance, or else upon their return to their Companions, if they did not like that Advice, they might do as they thought good.

[2.] *Id. ib.*  
The *Rusticks* in *Essex* take Arms again, though in less Numbers, and send to the King to make new demands, which are refused.

Yet [3] for fear the Rebels might not disperse, but rather increase, the King forthwith sent the Earl of *Buckingham*, and the Lord *Thomas Piercy*, Brother to the Earl of *Northumberland*, with some Forces to suppress them, who found them (like those of *Norfolk*) entrenched within a Ditch, besides their own Carriages, set in their Rear, as also with the stronger Defence of the adjoining Woods; yet upon their being

[3] *Id. ib.*  
The King sends the Earl of *Buckingham* and Lord *Piercy* against them, who assault them in their very Trenches, and put them to the Rout, and kill many of them.

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The like is  
done by the  
Lord Fitz  
Walter, and Sir  
John Harlston.

[1.] *Id. ib.*

The King  
sends the Lord  
Chief Justice  
Trefilian into  
Essex, to en-  
quire into the  
Raisers of this  
Rebellion,  
whereupon  
500 of the  
Rebels cast  
themselves on  
the King's  
mercy, which  
is granted on  
Condition.

[2.] The  
Ringleaders  
are Executed.

[3.] *Id. ib.*  
Commissions  
of Oyer and  
Terminer are  
issued for the  
Trying those  
taken in Lon-  
don.

[4.] *Id. ib.*

The King  
comes in Per-  
son to St. Al-  
bans, with the  
Lord Chief  
Justice, who  
tries and  
Condemns  
the Ringlea-  
ders in the  
late Insurre-  
ction to be  
Hang'd, and  
Quartered.

[5.] *Ball* the  
Priest is Con-  
demn'd to be  
Hanged, but  
is Repriev'd  
'till he had  
made his Con-  
fession.

being assaulted, they were dispersed without any Difficulty, by no more than Ten Lances, that marched before those Lords ; and when they saw them thus put to the Rout, they encompassed the Woods, that none of them might escape, and so there were killed about Five Hundred of them in divers Places, and the Soldiers took Eight Hundred of their Horses ; yet those that had escaped rallied again, and making hast to *Colchester*, began by Threats and Promises, to allarm the Towns-men into the like Madness ; yet not being able much to prevail there, they went into *Sudbury* ; but the Lord *Fitz-Walter*, and Sir *John Harlston*, hearing of their approach, followed them with some Forces, and killed abundance of them ; however, they let some escape, and committed the Ring-leaders to several Prisons.

Then [1.] the King hearing of this Success, remov'd to His *Bower of Havering*, and there appointed Sir *Robert Trefilian* His Chief Justice to sit and enquire concerning those Malefactors, and to Punish them according to Law. But when the *Essex* Boors saw there was no more ground of hopes, above five hundred of them came bare-headed, and with bare feet before the King, and casting themselves on their knees begged His Mercy, which was soon Granted them, but upon Condition that they should discover and deliver up the Ring-leaders of these Commotions ; by which means many, being Imprisoned, and found [2.] Guilty before the said Justice by Verdict of the Jury, were Hanged (sometimes nine or ten on a Gallows) for Beheading being then looked upon as not so base and remarkable a Punishment ; the Chief of them were Executed, by Drawing, Hanging, and Quartering, and thus Matters stood in *Essex*.

Then [3.] in other Counties where these Insurrections and Tumults were suppress'd, Commissions of Oyer and Terminer were issued out for the Trials of the Chief Contrivers and Managers of them ; first, those of *London*, and such of *Kent*, *Essex*, *Norfolk* and *Suffolk*, as were found within the Liberties of the City, were Tried before the Lord Mayor ; of whom the Chief were *John Straw*, *John Kyrkeby*, *Alan Treder*, and *John Starling* of *Essex*, who gloried that he had murdered the Archbishop. These had their Heads cut off, with several others not named.

At [4.] *St. Albans*, the King coming thither in Person, with Sir *Robert Trefilian*, he sat in Judgment upon these Traytors ; and then *William Gryndecobbe*, *William Cadyndon*, and *John the Barber*, with Fifteen others, were Condemn'd, Drawn, and Hanged : And of the Chief Men of the Town were Imprisoned, *Richard Walyngford*, *John Garlick*, *William Berewill*, *Thomas Putor*, and many more of the ordinary sort of the Country People were Imprisoned, but afterwards by the King's Mercy they were set at Liberty.

And [5.] *John Ball* the Priest, being taken at *Coventry*, and brought to *St. Albans*, he was adjudged to be Drawn, Hang'd, and Quarter'd, and was Executed accordingly, on the Fifteenth of *July*, having been some days Repriev'd through the Mediation of the Bishop of *London*. This Man had Preach'd up Doctrines to please the People above twenty Years, and for his Seditious Sermons was in Prison when this Rebellion first broke out in *Kent*. He also made to them at *Black-Heath* the Speech already mention'd. His Chief Tenet was, That *Tythes* ought not to be paid, unless he that paid them were more able than



the Curate that receiv'd ; nor were they to be paid neither, unless he were also of better Life and Conversation than his Parishioners, with other Points related by my Author to be held by *John Wickliff*, need-  
 less to be here inserted, tho' I find no grounds for that in his Writings. But to return to this *Bill*, he is further said to have excited the Com-  
 mon People to Act resolutely in killing all the Great Men of the Kingdom, with the Lawyers and Justices ; and lastly, to destroy all such as they knew would be any ways injurious to them for the future.

The [1.] Speech which *Ball* made at his Execution, with the Confession of *John Straw* a little before his Death, plainly discover the Designs of all these Tumults and Rebellions ; for the latter being thereto allured by the fair Promises of the Lord Mayor of London, own'd, that when they Assembled at *Black-Heath*, and sent to the King to come to them, their Purpose was to have slain all the Noble Men, Knights and Gentlemen that attended Him, and to have carried the King with them from Place to Place, that the Rabble might with greater boldness come in to their Assistance when they should see Him, as it were the Promoter of their Insurrections ; and that when there should have been sufficient Numbers got together in all Countries, they were to have killed such Lords, Knights, and others, as were most likely and able to resist them, especially the *Hospitallers* ; then at last they were to have killed the King, and all the Bishops, Monks, Canons and Rectors of Churches, that were Endowed with any Lands and Possessions, sparing only the *Friars Mendicants*, who they thought were sufficient to Celebrate and Perform Divine Service thro' the whole Nation. These things being perform'd, when there had been none Greater, more Potent, and Knowing than themselves, they would have made such Laws as they pleased, by which the People were to be Govern'd ; and they intended to have made Kings, as *Wat Tyler* in *Kent*, and in every other County, One. On the Eve also of that Day, whercon *Wat Tyler* was killed, the City-Rabble being on their side, they intended to have burnt London, and divided all the Rich Goods found there, amongst themselves. This he affirm'd to have been their Design, as he desired God would have Mercy on him, at his going out of the World ; and then had he his Head struck off.

After this the [2.] King, for their good Service in destroying *Wat Tyler*, preserving the City, and giving Him a speedy Assistance against the Rebels, Knighted *William Walworth* Lord Mayor, *John Philpot*, *Nicholas Brembre*, and *Robert Laund*, Aldermen ; and gave to Sir *William Walworth* a Hundred Pounds per Ann. Land, and to the other Three, Forty Pounds per Ann. to them and their Heirs for ever ; and not long after He Knighted *Nicholas Twyford*, and *Adam Francis*, two other Aldermen.

It is also to be Noted, that these [3.] Rebels, tho' in several Shires, held a strict Correspondence, and their Leaders sent abroad their Epistles of Advice and Encouragement ; some of which (as they were taken) I shall insert, for the Reader's Diversion, that he may admire the Style of these Popular Orators, and observe what strength of Perswasion there was in *Nonsense* upon those, who were capable of no better.

*Anno Domini.*  
 1381.

[1.] *I. ib.*  
 This Dying  
 Speech, and  
*Jack Straw's*  
 Confession,  
 discover the  
 Wicked De-  
 signs of those  
 Rebels.

[2.] The  
 King Knights  
 Sir *William*  
*Walworth* the  
 Mayory and  
 several Alder-  
 men, for their  
 good Service  
 against the  
 Rebels.

[3.] These  
 Rebels held  
 Correspond-  
 ence with  
 each other in  
 several Coun-  
 ties.

*Dom.* John Sheep, *Some time* S. Mary, Priest of York, and now of Colchester, Greeteth well John Nameless, and John the Miller, and John Carter, and biddeth them beware of Guile in Borough, and stand together in God's Name, and biddeth Piers Plowman go to his Werk, and chastise well Hob the Robber, and take with you John Trewman, and all his fellows, and no mo; John the Miller hath yground small, small, small: The King's Son of Heaven shall pay for all: Beware, or yee be woo; know your frende fro your foe, have ynough and say No, and do well and better, and flee Sinne, and seek Peace, and hold your therein, and so biddeth John Trewman, and all his fellows.

*Knighton* hath set down more of the same sort, which I pass by; I shall only from him give you another from a Lay Leader of that Gang, which is as followeth:

Jakk Mylner asketh help to turn his Wylne aright; he hath grounden small, small; the King's Son of Heaven, he shall pay for all: Look thy Wylne go aright with the four Sails and the Post stand in Stedfastness, with Right and with Might, with Skill and with Will, let Might help Right, and Skill go before Will, and Right before Might, then goeth our Wylne aright; and if Might go before Right and will before Skill, then is our Wylne mysadryght. There follow two more from Jack Carter and Jack Trewman; but these are enough to shew the Stile, and way of Writing, of these illiterate Clowns.

*14. 16.*  
The King  
being se-  
d, the King  
his  
er Char-  
s of Manu-  
mission to  
the Villains.

The [1] Storm being thus happily over-blown, and a competent Force raised to secure the Peace of the Kingdom, and the Delinquents being now brought to speedy Justice, the King (so soon as He could do it with Safety) revoked all his former Charters of Manumission and Pardon, by a Proclamation under his great Seal, wherein, after He had recited the said Charters, He declared, That for that they did issue, without mature Deliberation, or that He had well weighed the Purport of them; and that the Grant of the said Letters did manifestly tend to the great prejudice of Him and his Crown, and to the Disinheriton as well of Himself, as of the Prelates and Nobility of the Kingdom, as also of the Holy Church of *England*; and also to the Damage of the Common-wealch: He therefore, by the Advice of his Council, thereby revokes the said Letters Patents, and also Commands it to be Proclaimed in all Towns, Cities, &c. whereby He strictly enjoins all and singular, as well Free as Bondmen, that without any Contradiction, Murmuring or Resistance, they do and perform all Works, Customs and Services, which they owed either to Himself, or any other their Lords, before the late Disturbance, without any withdrawing or diminishing of the same; and that all such Charters of Manumission as had been already made, should be forthwith given up to be Cancel'd, nor presume to claim any Liberties or Priviledges thereby, with other Clauses not of Moment enough to be here set down. This bears Date at *Chelmsford*, the Second of July, this Fifth Year of his Reign.



During [1] these Convulsions, the Duke of *Lancaster* (very happily for the Preservation of his Person) to whom the common People bore so great a spight, was gone into the North against the *Scots*; but having Tidings of these Insurrections, thought fit to clap up a Truce for two Years, which he got Ratified upon Oath, some Days before the *Scots* had any Notice of the Troubles in *England*; but conceiving himself yet in Danger, for the general (tho' false) Report was, that the King, to pacify the Rebels, had consented to abandon him to their Pleasure, whenever they could seize him; and [2] having also received divers Sights and Affronts in that Distress from the Earl of *Northumberland*, (needless to be here recited) he desired of the *Scottish* King, and his Nobility, a safe Conduct, and to reside for a time amongst them, who honourably entertains him at *Edinburgh*, till he was sent for by the King; and then a new Cause of Quarrel happen'd between him and the Earl of *Northumberland*; for in his Return, he was denied passage thro' the Town of *Berwick*, by a Captain, *Sir Matthew Redman*, by virtue of a Command from the said Earl, Lord Warden of the *Marches*, not to suffer any from *Scotland* to enter the same; which indeed the King had specially ordered, forgetting the Duke's being then in that Kingdom; however, this bred such an Animosity in the Duke against the Earl, that when he came home, he charged him with several things, before the King, at *Berkhamstead*, which the Earl as stoutly answered; and great numbers of Armed Men followed each of them, so that it caused mighty Factions and Divisions in the Kingdom.

When [3] all things were grown quiet, on the sixteenth of *July* Writs were sent forth for a Parliament to meet at *Westminster*, on *Monday* after the Exaltation of the Holy Cross, or fourteenth of *September*, which was afterwards Prorogued to the Morrow of *All-Souls*, being *Monday*, when it was further Adjourned to the next Day, many Lords and Prelates being absent; and so unto *Wednesday*, and then too by reason of the Quarrel between the Duke of *Lancaster* and the Earl of *Northumberland*, who came to the Parliament with great Retinues of armed Men and Archers, the King caused the Parliament to be Adjourned unto *Saturday* following, within which time He composed the Differences between them, and ended the Quarrel, by making the Earl crave the Duke's Pardon.

Then [4] the Cause of Summons was declared to be, that they might consider how to procure the Quiet and Peace of the Nation, and settle it after the late Tumults and Insurrections, and to confirm or repeal the Grants the King had made of Liberty and Manumission, obtain'd by Force by the Bond-Tenants and Villains; and lastly, that the King was much indebted, and in great Necessity for Money to maintain his Court, and the Wars.

Whereupon, [5] the whole Parliament, Lords and Commons, declared, *The Grants of Liberties and Manumission to the said Villains and Bond-Tenants, to be obtain'd by Force, and was in Dishonour of them the Nobles and Commons, and Destruction of the Realm; and therefore to be null, and repealed by Authority of Parliament.*

The [6] Commons also pray'd the King, that they might have certain Prelates and Lords to commune with them about their Charge, for that the Matters very highly concerned the State of the Realm, and it was much to the purpose to have their Advice.

A.D. 1331.

[1] *Id. ib.*

The Duke of Lancaster being in the North, is forced to clap up a Truce with the Scots.

[2] *H. R. Col. 2642.*He receives a safe Conduct from the King of Scots, and retires for a time to *Edinburgh*.The Duke, in his Return, being kept out of *Berwick* by the Earl of *Northumberland's* Order, That with other Affronts received, highly incenses the Duke against him, so that he complains to the King.[3] *Rot. Claus. 5. Rich. 2. M. 40 dorf.*A Parliament summoned at *Westminster*, to which the Duke of Lancaster, and Earl of *Northumberland*, came up with great Retinues of armed Men, till the King composed the Differences between them.[4] *Rot. Parl. 5 Rich. 2. N. 8.*

The cause of the Summons declared, to settle the Peace of the Nation.

[5] *Id. N. 13.*

The late Charters of Manumission declared void.

[6] *Idm.*

The Commons pray, that certain Prelates and Lords might treat with them about their Charge.

Anno Dom.

1381.

[1] *lb. N. 14.*  
Which isgranted upon  
giving in  
their Names  
in Writing.[2.] *lb. N. 16.*The Commons  
also desire,  
that all the  
Eftates of the  
Kingdom  
should treat  
apart concern-ing their  
Charge, and  
they Report  
their Refolu-tions to the  
Commons,  
which Me-  
thod is refus'd  
by the King.[3] *lb. N. 17.*The Commons  
complain of  
the ill Govern-  
ment of the  
Realm, and  
diforders of  
the Court ;  
with the abu-  
fes in the  
Law.[4] *lb. N. 18.*The King  
consents that  
certain Pre-  
lates and  
Lords should  
be appointed  
to examine  
into thofe  
Abufes.[5.] *lb. N. 19,*

20, 21, 22, 23.

Certain Peti-  
tions of the  
Commons,  
without any  
Answers to  
them.[6.] *lb. N.*

25, 26.

The [1] Answer was, They should give in the Names to the King in Writing, of such as they desired, that He might advise 'about it ; which was done, and the King granted their Desire.

And [2] the Commons further pray'd the King, That the Prelates by themselves, the great Lords Temporal by themselves, the Knights by themselves, the Justices by themselves, and all other Eftates singly, might be charged to treat and commune about their Charge ; and that their Advice might be reported to the Commons: To which it was Answered, That the King had charged the Lords, and other Sages, to commune and Treat diligently upon the said Matters ; but the antient Custom and Form of Parliament had always been, that the Commons should first report their Advice, upon the Matters given them in charge to the King and Lords of Parliament, and not on the contrary ; and therefore the King would, that the antient and good Customs and Form of Parliament should be kept and oblerved.

After [3] the Commons had conferred with the Lords, they return'd into the Parliament, and made great Complaint of the ill Government of the Realm, which, if not amended, the Kingdom would be in short time ruined : They complained also of the Government about the King's Person, his Court, the over great number of his Servants, of the Abuses in the *Chancery, King's-Bench, Common-Pleas, Exchequer*, and of grievous Oppressions in the Country, by the great Multitude of *Embracers* (in the *French Record Braceurs*) and *Maintainers* of Quarrels, who behaved themselves like Kings in the Country ; so as there was very little Law or Right, and of other things, which they said were the Cause of the late Commotions, and Mischiefs of the Land, and requested they might be amended.

Then [4.] the King by Advice of the Lords and His Council, Granted, that certain Prelates, Lords, and Others, should Survey and Examine the Government of His Person, and Court, and to think of sufficient Remedies. The Persons chosen to make this Enquiry were, the Duke of *Lancaster*, the Archbishop Elect of *Canterbury*, the Archbishop of *Tork*, the Bishops of *Winchester, Ely, Exeter*, and *Rocheſter* ; the Earls of *Arundel, Warwick, Stafford, Suffolk*, and *Salisbury* ; the Lords *Zouch, Nevil, Grey of Ruthin, and Fitz-Walter* ; Sir *Richard le Scrope*, Sir *Guy de Brian*, and others. The King's Confessor was charg'd to abstain from coming to, or remaining at Court, at the Request of the Commons, and Assent of the Lords, being one (as was suppos'd) that gave the King ill Advice.

Then [5.] follow certain Petitions of the *Commons*, tho' their Answers are not set down.

First, They Petition the Duke of *Lancaster*, and others, Assign'd by the King for that Purpose, to place the most discreet and valuable Officers about the King's Person, and His Court, to appoint a Chancellor, Barons and Officers in the *Exchequer*, Judges of one Bench and the other, that they might know their Names, and what they were to do, and the Method they were to take in the Regulation of the Realm, after these things were done.

They [6.] also Petition that an end might be made of the War, which was in great part maintain'd by the Goods that the Enemies of the Nation took by Sea and Land, from the *English*, to the great Dishonour of the Government, and Nation, and Destruction of the whole Realm.

They



They [1.] likewise Petition, That certain of the Chief Clerks in *Ann o Dom.*  
*Chancery*, certain *Justices*, *Barons* of the Exchequer, and others 1381.  
 Learned in the Law (not there named) might Consult of the Grievances  
 above; and that certain Merchants (not named neither) might declare  
 the Causes of the Low Prizes of our Commodities, the carrying over  
 our Money, Washing and Clipping thereof; but I find no Report  
 made of this Matter, or Remedy Order'd, tho' there is something in  
 the Statutes at Large this Year, about Exportation of Money, and  
 the Exchequer, *vid Cap. 2. & 9, 10, 11, 12, 13.* [1.] *ib. N. 28.*

Then the [2.] *Commons* brought into Parliament a Schedule or Draught [2.] *ib. N. 20.*  
 containing 3 Articles for as many sorts of Pardons, if the King would  
 please to Grant them. The First was for the Lords, Gentlemen, and  
 others, that in Resistance of the Rioters and Traytors caused some of  
 them to be Slain, without due Process of Law; for which see the  
 Statutes at large of this Year, *Cap. 5.* which Statute exactly agrees  
 with the Record. The *Commons* bring in a Draught for three sorts of Pardons.

The [3.] Second, To appease and quiet the Minds of the Com- [3.] *ib.*  
 mon People, concerning all Treasons and Felonies committed in the  
 late Riots and Tumults. Which Pardon was Granted to all and sin-  
 gular Persons. [4.] except such as were of the Towns of *Canterbury*, [4.] *ib. N. 32.*  
*St. Edmonds-Bury*, *Beverly*, *Scarburgh*, *Bridgewater*, and *Cambridge*;  
 except also the Persons whose Names were after written, and were  
 brought into Parliament, as the Chief and Principal Exciters and Mo-  
 vers of these Insurrections in the several Countries; and those that  
 killed the Archbishop of *Canterbury*, Lord Chancellor, the Prior of  
*St. John's*, Lord Treasurer, and Sir *John Cavendish*, Lord Chief Ju-  
 stice; and except such as had escaped out of Prison, and had not then  
 rendred themselves; provided that such as received Damages and  
 Losses by these Insurrections, should not by this Pardon be fore-closed  
 from recovering any Recompence by due Course of Law. A Pardon granted to all Offenders in the late Tumults, except such Places and Persons as are particularly excluded.

The [5.] Third was, for the good People that kept themselves in [5.] *ib.*  
 Peace, and were no ways consenting to the said Tumults and Insur-  
 rections, yet were some ways concern'd by favouring or receiving the  
 Rebels. The Forms of these Pardons were now agreed on, and read,  
 tho' the King had not yet passed them.

Afterwards, upon the [6.] Petition of the Commons, that the [6.] *ib. N. 35.*  
 Towns above-named might, with other Towns, receive the Benefit of  
 the Pardon (except those Persons that were specially excepted) the  
 King granted, except for the Inhabitants of the Town of *St. Edmonds-*  
*Bury*, who for their so long continued Wickedness, He would not  
 have Comprized in his Grace; and except also the Persons whose  
 Names were deliver'd into Parliament, as the Chief and Principal  
 Ring-Leaders, Abettors and Procurers of the late outrageous Treason,  
 which was put off for that time. The *Commons* Petition that the Towns already excepted might also partake of the General Pardon.

After the [7.] Business of the Pardons was over, the Commons [7.] *ib. N. 34.*  
 made a Rehearsal of their Requests and Grievances, which they would  
 have amended, and desired to have a view of what was done in that  
 Matter, which the King then did not immediately Answer, but  
 [8.] told them He had been at great Expence in quieting the Nation  
 of the late Tumults, and otherwise, as was declared to them before  
 by His Officers; and that He was to be at further great Expences,  
 by reason of the Queen's coming over, her Marriage, and Corona-  
 tion, [8.] *ib. N. 35.*

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tion, which were suddenly to be Celebrated: Also in Guarding the Seas, and keeping His Fortresses Abroad, and for Defence of the Realm at Home; for the discharge of which Debts, and the supply of His Expences, He had nothing in His Treasury; or otherwise.

[1.] *Ib. N. 36.*  
Which is refused by the Commons, and for what Reason.

To [1.] which the Commons Answer'd; That considering the Evil Hearts and Rancour of the People thro' the whole Realm, they neither durst nor would grant any manner of Talliage.

[2.] *Ib. N. 37.*  
They also desire to know the extent of his Pardons.

They [2.] also desired the Parliament may be Adjourned 'till after *Christmass*, which was granted; and then they also desired again, to know the extent of His Grace and Favour in Pardoning.

[3.] *Ib. N. 39.*  
The King desires to grant a Pardon, 'till they would agree to a Supply.

The [3] King Replied, It was not the Custom of Parliament to have a General Pardon, and such Favour from the King, when the Commons would not grant Him any thing; and told them, He would advise further of His Grace and Pardon, until they should do what belonged to them: And said moreover, it was Customary to grant Pardons the last day of the Parliament, when He answer'd their Supplications and Petitions in Writing.

[4.] *Ib. N. 40.*  
The Commons continue the Customs upon Wool and Woolfels.

Whereupon [4.] the Commons came into full Parliament before the Lords, saying, They had advised and consider'd the great Charge of the King, as well here, as beyond Sea; and then the Prelates, Lords and Commons, continued the Subsidy of Wool, Leather, and Woolfels, until *Candlemass* next ensuing, as it was last Granted; which was read in Parliament, as also the Declaration of the King's Grace and Pardon; at which the Commons were much Joyed, and thanked the King most humbly for the same.

[5.] *Ib. N. 54.*  
Great Complaints made in Parliament against the Mayor, Bayliffs, and People of the Town of Cambridge, for their Actions against the University in the late Tumults.

I find [5] also in this Parliament, that there were great Complaints made against the Mayor, Bayliffs, and Commonalty of the Town of Cambridge, for their evil Practices, as well out of the Town in the Country, as in it, against the University, in the time of the late Tumults, as by the Bill exhibited against them may appear; wherein is set forth, that they went to *Corpus Christi*, or *St. Benedict-Colledge*, where they seized the Charters, Writings, Books and Records, broke down the Scholar's Chambers, and took and carried away Goods and Chattels to a great value: Also that they compelled the Masters and Scholars, under pain of Death, and Destruction of their Habitations, to renounce all manner of Franchises and Priviledges granted to them by any King whatsoever, and submit to the Government of the Town for ever: Also by threatening Death, they caused the Masters and Scholars to enter into Bonds to pay them great Sums of Money, and forced them to give a general Acquittance and Release, of all Actions Real and Personal: And by the same threatening, they compelled the Masters and Scholars to deliver them their Charters and Priviledges, which they burnt in the Market-place, contrary to the King's Proclamation and Prohibition.

[6.] *Ib. N. 46.*  
[7.] *Ib. N. 48.*  
The said Officers are summoned to appear before the King and his Council in Parliament.

Whereupon, [6] the King Issued his Writs, to *John Masterman*, the present Mayor, (who was then one of the Burgesses for the Town in this [7.] Parliament) and Bayliffs, and to *Edward Lystere*, the late Mayor, and Bayliffs, when the Riot and Tumult was made, to appear in Parliament, to acquit themselves, if they could, before Him and his Council; there reciting in his Writs most of what they had done in prejudice of the Chancellor, Masters and Scholars of the University; they appear'd, and were order'd to deliver up the Renun-

ciation-



ciation-Bond, and Release above-mentioned under the University *Anno Dom.*  
 Seals, which were Cancell'd in Parliament; and are entred upon the *1381.*  
 Roll: Then the Bill against them being Read in their presence  
 in Parliament, they were asked what they had to say, why their  
 Franchises and Privileges should not be taken into the King's hands as  
 Forfeited. At that time they were not Charged with any Crime, but, as  
 they were told, were only to Answer concerning their Franchise,  
 [1.] which they did by their Council, and denied the Matter of [1.] *Id. N. 57.*  
 Fact, and further said, if any such things were done, they were done *They alledge*  
 by the Traytors and Malefactors of the Counties of *Essex, Hereford-* *and deny the*  
*Matters of*  
*fact, which*  
*being prov'd,*  
*they submit*  
*themselves to*  
*the King's*  
*Grace.*  
*shire, and Kent, who came to their Town in great Numbers; but it ap-*  
 pearing that they were always present at their wicked Practices, and  
 that the Renunciation, Bond and Releases of the *University*, were in  
 their keeping, and that upon the King's Precept they would not deli-  
 ver them, it was thought Evidence enough to find them guilty of  
 the whole; whereupon they submitted themselves entirely to the  
 Kings Grace, to do what He pleased with their [2.] Franchises; [2.] *Where-*  
 some part whereof, by Advice and Assent of the Prelates and Lords, *upon their*  
 the King gave to the *University*, and the Residue He granted to the *Franchises*  
*being given*  
*up, some are*  
*granted to*  
*the University.*  
*Town.*

On [3.] the Thirteenth of *December*, because *Christmas* was near, *the University.*  
 and the time of the Queen's coming into *England* also approach'd, [3.] *Id. N. 64.*  
 and her Marriage and Coronation were to be Solemniz'd, the *The Parlia-*  
 King Adjourned the Parliament, by the Assent of the Prelates, Lords, *ment is Ad-*  
 and Commons, unto the Friday next before the Conversion of *journal till*  
*after Christ-*  
*mas.*  
*St. Paul;* and did Will and Command that the Pleas, Causes, and  
 other Matters moved in that Parliament, and remain'd undetermined,  
 and all other things, with their Dependencies, should continue as  
 they were, in the same Condition, untill the Friday abovesaid.

Therefore I shall begin this Year with the King's Marriage; in order *Anno Dom.*  
 to which [4.] *Pileas* Cardinal of *St. Praxedes*, with the Duke of *1382.*  
*Tarfilia*, and many other Noblemen, had in the beginning of the pre-  
 ceding Year, come over into *England*, to conclude a Treaty of Marri-  
 age, between the King, and *Anne*, Sister to *Wenceslaus*, then Emperor,  
 and King of *Bohemia*; at last the Articles being agreed between them,  
 [5.] She about the latter end of *December* arrived at *Dover*, and was receiv'd  
 with great Solemnity, by those Noblemen that went to meet Her; *arrives in*  
 and was Married to the King on the Fourteenth of *January*, in the *England, and*  
*is married to*  
*King Richard.*  
 Chappel-Royal at *Westminster*; and the Wedding being Celebrated [5.] *Frois.*  
 with great Magnificence, She is crowned Queen. She was a Princess *2. Vol.*  
 of great Vertue and Goodness, which was all the King had with Her; *The Empe-*  
 for instead of a great Portion in Money, which He was then offered *ror's Sister*  
 with the Lord of *Milan's* Daughter, the King gave the Emperor no *arrives in*  
 less than Ten Thousand Marks for his Alliance; and He was also at *England, and*  
 the whole Charge of Her Journey, and coming over: But this Match *is married to*  
 proved of no Advantage at all to *England*; for Her Brother the Empe- *King Richard.*  
 ror being a few Years after deposed by the Princes of the Empire, be- *[5.] Frois.*  
 cause of his Tyranical and Arbitrary Temper, He was forced to rest *2. Vol.*  
 contented with the bare Kingdom of *Bohemia*, which lay so remote and *She being pre-*  
 encompassed with the Territories of other Princes, that He could do *sently after*  
*crowned*  
*Queen, by*  
*Will. Courtney,*  
*lately promo-*  
*ted to be A. B.*  
*of Camerbury.*  
*The Disad-*  
*vantages of*  
*this Alliance.*  
*England* neither good nor hurt.

Anno Dom.

1382.

[1] *Id. ad hunc An.*  
The Duke of Lancaster prevails with the King, to send some Forces to the Assistance of the K. of Portugal, under the Conduct of the Earl of Cambridge, who arrive at Lisbon, with what was done thereby them.

The Parliament sits again after Christmas.

[2] *Rot. Parl. 5. Rich. 2. N. 66.*

The Duke of Lancaster offers to go into Portugal, if the Kingdom would provide Money to pay the Army.

[3] *ib. N. 67.*

The Lords and Commons continue the Subsidy upon Wool, &c. for 4 Years, to come, for the defence of the Kingdom.

Yet they will not be thereby engaged to make War with Spain.

[4] *T. W. Vid. Stat. 5.*

*Rich. 2. cap. 1.*  
An Act for Merchant Strangers to come into England, and sell their Goods, with some other Acts, not observed.

Before I proceed further, I cannot but take notice, that in the beginning of this Year, [1] the Duke of Lancaster, Titular King of Castile, had so far prevailed with the King and Council, as to send a small Army to the Assistance of the King of Portugal, who being then hard put to it by King Henry the Bastard, the Portuguese Prince offer'd very advantageous Conditions; and among others, that by the Power of his Fleet, He would hinder the French and Spaniards from going in or out of the Streights of Gibraltar; and therefore Edmund of Langley, Earl of Cambridge, as General, the Lord William Beuchamp, and other Noblemen, as chief Commanders, set Sail for Portugal, and arriving at Lisbon, were there joyfully received by the King; but though these Forces were too few to make an Invasion into Castile, yet they served very well to act defensively for the Security of Lisbon, which was not long after Besieged by the Spaniards, and had been taken, had it not been defended by the English, who making a brisk Sally upon the Enemy, forced them to raise the Siege from before that City, from whence they carried nothing but Blows and Wounds. This deserves our Notice, because it gives us Light to what was transacted in the next Session of Parliament.

And that began in the latter end of January, according to the late Prorogation: where the first thing that I find to have been proposed was, [2] the Duke of Lancaster's Offer, to make another Expedition into Portugal, if England would provide him with Sixty Thousand Pounds, to pay the Wages of Two Thousand Men at Arms, and Two Thousand Archers, for half a Year: The Reasons for this Voyage were, for the saving of such English as were then there; and that he might recover his Right there in those Parts, and also for the Safeguard of the Sea, and the Realm of England, and (if GOD pleased) for the greater Destruction of her Enemies; offering also to repay this Sum in Three Years, either in Money, or acceptable Service. Upon this Offer and Voyage the Lords had a long Debate; some approved his Reasons, others not, so as he could not then obtain what he desired.

Then [3] the Lords and Commons, on the Five and Twentieth of February, considering the Necessities of the King, and the Multitude of his Enemies by Sea and Land, with the great Expences He must be at for the Defence of the Kingdom, and Resistance of such Enemies, granted of their Free-Will to the King, the Subsidy of Wool, Woollfells, and Leather, as He received it upon the last Grant, from that Day until the Feast of St. John Baptist next coming, and from thence for Four Years; whether such Defence or Resistance should be by the Voyage of the Lord of Lancaster into Spain, or any other manner whatever, with this express Protestation of the Commons, *That it was not their Intention to be obliged by any Words in this Grant to Quarrel, or have any War with Spain; but only for the Defence of the Kingdom, and Resistance of its Enemies, by the Advice of the Lords, as it should seem best to them All to ordain.*

In [4] this Parliament also were made several Statutes concerning Strangers being admitted to buy and sell Commodities in their own Names, without any hindrance of the Merchants of England; and also for the forbidding of Furs, and regulating the excess of Apparel among inferior People; to settle the Price of Wines, and many other Matters: *But what (saith Walsingham) do such Acts of Parliament signify?*



nify : When after they are made, they take no effect, or are nothing regard- Anno Dom.  
ed ; for the King, with his Privy Council, took upon them to alter, or 1382.  
wholly set aside all those things, that by general Consent had been ordain'd  
in Parliament. Of such ill Consequence was the exercise of the King's  
Prerogative, for the dispensing with Laws for the Publick Good ; of  
the truth whereof, there were too many unhappy Instances.

Amongst [ 1 ] other Transactions in this Parliament, upon the Request [ 1. ] *Id. ib.*  
of the Lords and Commons, Sir Richard L'Esrope was by the King *Richard L'Esrope*  
appointed Lord Chancellor, as being a Person of known Judgment, made Chan-  
Learning, and inflexible Integrity ; but within a few Months he was cellor, but is  
by a Court-Faction, turn'd out of that Office, which he had prudently within a few  
and laudably administer'd, merely because to do the King faithful Months dis-  
Service, he had displeased some of his unworthy Favourites ; the Re- miss'd from  
lation of which, I shall set down in *Walsingham's* own Words : by a Court-Fac-  
' Edmund Mortimer, Earl of Marche, and several other Lords, being tion, and for  
' lately Dead, certain greedy and ambitious Knights and Esquires, and what cause.  
' others of inferior Rank, that were Servants to the King, had begged  
' of Him Grants of divers Lands and Lordships, lately belonging to the  
' Deceased, that they might have the Profits thereof, for so long time,  
' as the King, by the Custom of the Realm, was to hold them in his  
' Hands ; which, the King not minding the value, nor considering  
' any Reason they had to desire, or merit to deserve, such Revenues,  
' presently consented to, ordering them to the Chancellor, to have  
' their Grants passed under the Great Seal ; but the prudent and honest  
' Chancellor, who zealously desired the Prosperity of the Kingdom,  
' and just Profit of the King, absolutely refused to do it ; telling them  
' the King was much in Debt, and 'twas most necessary He should reserve  
' such Contingencies to Himself, therewith in part to satisfy his Creditors ;  
' and that since they well knew the King's urgent Occasions, they  
' could be no good Subjects to his Majesty, who consulting their own  
' Advantages more than his Service, and preferring private Lucre be-  
' fore publick Necessities, should go about to circumvent, and further  
' impoverish Him, by such prejudicial Requests, from which they should  
' do well to desist, and be content with his Majesty's former Largesses,  
' which were sufficient for them.

' Nettled with this Repulse, these Courtiers resort to the King,  
' grievously complaining of the Chancellor's Obstinacy, that he con-  
' temned his Majesty's Command ; and that it concerned Him presently,  
' and with due Severity, to chastise such an affronted Disobedience ;  
' for otherwise, the Royal Authority would become contemptible to  
' all his People, and his Commands be accounted of no value, &c.  
' Whereupon, the young King, more regarding the false Suggestions of  
' these self-designing Flatterers, than the faithful Allegations and Ad-  
' vice of his Chancellor, sends him a hasty Message, to demand the  
' Seal of him ; but the Chancellor would deliver it to no other Hands  
' than the King's ; to whom having surrendered it, He was pleased to The Chan-  
' retain it for some Days in his own Custody, sealing divers Grants cellor delivers  
' therewith Himself, till at length the keeping of it was conferr'd on the great Seal  
' Robert Braibrook, Bishop of London, on the Twentieth Day of Septem- into the Kings  
' ber ; by which Action, the King very much discontented the Great own Hands,  
' Men, and Others, of the Kingdom ; and gave the first occasion of who seals  
' dislike to his Government, or rather to his chief Ministers, who then Grants with  
Vol. III. managed it himself.

Anno Dom. 2382. managed Affairs, and prevail'd upon the King's Youth, and easiness of his Nature.

*Walsingham* also mentions another Parliament, or great Council, to be held at *London* in the beginning of *May*, when *John Wickliff*, growing more bold by reason of the Schism at *Rome*, sent up to the Lords and great Men there assembled, certain Articles, to the number of Seven, containing the Sum and Substance of his Doctrines, thereby hoping to spread them, and draw the Nobility to take his part. My Author hath set down these Articles at large, which I have also given you among the Ecclesiastical Affairs at the end of this Reign.

A great Council at *London*, where *Wickliff* sends up the chief Articles of his Doctrine.

[1.] *Id. ib.* Another Council, at which, several of the chief Persons of *Flanders* offer to put themselves under the Subjection of the King; but are sent home again.

[2.] *Id. ib.* The Fishmongers, by the Lord-Mayor's Suggestions, are forbid to sell Provisions.

[3.] *Id. ib.* The Earl of *Cambridge*, having suffered many Losses by Land, and Perils at Sea, returns home with those Forces he had left. A short Account of the chief Actions performed by the Earl of *Cambridge* in *Portugal*.

About [1] *Michaelmas* following, the same Author mentions another Council to have met at *London*, at which were present many of the chief Persons of *Flanders*; who having again lately expelled their Earl out of the Country, came now to offer to put themselves under the Subjection of the King of *England*: But that Ambassy not seeming sufficient, they were sent back again, to bring along with them some Delegates, from the chief Towns of *Flanders*, who were of greater Note and Reputation, by whom it might evidently appear, that they had full Powers to enter into such a Treaty, and confirm what should be agreed on; of whose Return, and what was further done, I shall speak in due place.

In [2] this Council also, the Mayor of *London* (as my Author says) having made a false Suggestion to the King and Council, concerning the Frauds and Deceits which the *Fishmongers* used in selling of Victuals, obtained an Ordinance, that none of them for the future should vend any Provisions, as *Flesh*, *Wine*, and the like, by Retail; or that any *Apothecary* should be chosen Mayor.

I find nothing else to have happened worth noting, [3] but that about the beginning of Winter, *Edmund* Earl of *Cambridge*, having suffer'd great Perils by Sea, and lost much of his Equipage in a Storm, return'd into *England* out of *Portugal*, with those few Forces he had left, having been very unworthily dealt with by that King; who having made use of the *English* for the defence of his Capital City (as you have already heard) marched out with them the last Summer into the Field, in order to give Battel to the King of *Castile*: But He fearing the Courage of the *English*, enter'd into a Treaty with the King of *Portugal*; and being quickly agreed upon the Terms, they soon struck up a Peace, very much for the Advantage of the *Portuguese*: Of which one of the chief Articles was, That the *English* should be immediately sent home; and least they might pretend that they wanted Shipping for their Transportation, the King of *Castile* Himself provided it, whilst the *Portuguese* furnished all other Necessaries; and so the Earl of *Cambridge* with the *English* Forces, were forced to quit that Kingdom, whether they would or not. All the Advantage he gain'd by this Voyage was, that he betrothed his Son (whom he had gotten divers Years before, by one of the Daughters of *Peter* King of *Castile*) to the Daughter of the King of *Portugal*: But because the Earl mistrusted the uncertain Temper and Faith of that Nation, he brought over his Son along with him; and the King of *Portugal* upon a like Mistrust, would not let his Daughter go over into *England*, and so this Match some time after upon his Death broke off, without ever being Consummated.



If we [1] look into other foreign Parts, we shall find a great Revolution to have happened this Year in *Italy*, where *Charles* of *Durazzo* (whom our Author calls *Carolus de Pace*) having been the last Year Crowned King of *Naples* by Pope *Urban*, in Opposition to *Joan* I. Queen of that Kingdom, marched into it with a great Army, and routed that commanded by the Queen's General: He thereupon took *Capua* and *Cajeta*, with divers other Cities, and closely besieged *Naples* itself; where, notwithstanding all the Attempts of *Otto* Duke of *Brunswick*, Husband to that Queen, to raise the Siege, his Army was Repulsed, and himself sorely Wounded, taken Prisoner, whom his Adversary threatening to shoot into the Castle *del Ovo*, by a battering Engine, the Queen (being retired thither) was thereupon forced to surrender both it, her self, and all her Treasure, only on Condition to have her Life spared; and (as our Author relates) She then took upon her the Vail of a Nun: But the *Italian* and *French* Writers with greater certainty report, that some time after, She was privately strangled by *Charles*, her Kinsman and Adversary, to Revenge the Death of *Andrew*, King of *Hungary*, her first Husband, whom She was supposed to have Murthered several Years before.

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[1] *Id. ib.*  
*Charles* of  
*Durazzo* is  
made King of  
*Naples*, by  
Pope *Urban*,  
and makes  
War against  
Q. *Joan*.

Whom he  
takes Prisoner  
and after puts  
to Death.

But this Affair did not end here; [2] for the Duke of *Ajou*, younger Brother to the late King of *France*, having been, upon the first beginning of the Quarrel between the Queen and Count *Charles*, adopted by Her for her Son and Successor, upon the News of the danger She was in, made all the haste he could to assist Her with a powerful Army; and before he went for *Italy*, he was solemnly invested with the Kingdom of *Sicily* at *Avignon*, by *Clement*, Antipope to *Urban* above-mention'd; then this new King having reduced *Provence* to his Obedience, he proceeded on Journey for *Italy*, and had at first good Success against his Competitor, by taking divers Towns and strong Places in *Apulia* and *Calabria*, and was thereupon own'd by divers of the great Men of those Parts; But King *Charles* making up in Subtilty, what he wanted in down-right Force, about the end of this Year, amused his Adversary with a Challenge, to end the Difference by single Combat, which was afterwards altered to Ten Combatants of a side: And by this means he gained so much time, that having new fortified his strong Places, and recruited his Forces, he broke off the Agreement of Fighting, and openly defying the *French* Prince, kept himself on the Throne, in spite of all he could do against him.

[2] *Mezeray.*  
*Ad hunc An.*

As to Ecclesiastical Affairs, [3] this Year *William de Courtney*, Bishop of *London*, being Consecrated Arch-Bishop of *Canterbury*, in the room of *Simon Sudbury* lately Murthered, presently after condemned the Doctrines of *John Wickliff*, in about Twenty Articles (as you will find at large at the end of this Reign) which were sent to the Chancellor of the University of *Oxon*, to be promulged, tho' they did not find that ready Obedience he expected.

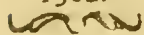
[3] *Chron. de*  
*Lamb. MS.*  
*ad hunc An.*  
T. W.

Also *Clement* the Antipope, in Revenge of King *Richard*'s opposing Him, now granted a Crusado against Him, and all his Adherents; but to make amends for this, [4] Pope *Urban* sent over his Bulls to *Henry Spencer*, Bishop of *Norwich*, (a Martial Prelate) as his Legate, to raise *Croisado*, which was to be in the nature of that for the Holy War, to fight with and subdue his Enemy *Clement* the Antipope, and all his Followers and Favourers, whom He thereby Excommunicated

[4] *Id. ib.*  
Pope *Urban*  
grants a  
Crusado to  
the Bishop of  
*Norwich* a-  
gainst *Clement*  
the Antipope,  
with the Ef-  
fects of that  
Bull.

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and Deposed from all Honours, and forbid any Conversation with them living, and so much as Burial of their Bodies when Dead, &c. in which Bull (amongst other things belonging to the Spiritual Power) he, as the Popes Legate, exercised here. There was likewise granted a Dispensation to all Beneficed Clergymen, that would undertake this Expedition to be absent from their Cures, during that War, and to recieve the entire Profits of them, as if they had been personally present; and there was further granted to all that crossed the Seas in this Quarrel, either at their own Expence, or of any others, full Remission of all their Sins; and besides, the like Priviledges to others that paid any Money for this purpose, as to those who went to recover the Holy Land; and there was further granted alike Remission and Indulgence, to all such as should give any considerable part of their own Goods, towards the Payment of such Soldiers, as should be raised by the said Bishop, or his Deputies; and if any should happen to die or be killed in this Expedition, they were also to recieve the like Grace; and because the Form of this *Absolution* may be a Novelty to those that never saw it, I shall here set it down at large, as I find it in my Author.

[1] *Id. ad hunc An.*

By [1] *Apostolick Authority to me committed, I do absolve thee A. B. from all thy Sins, which thou dost with thy Mouth, and with a contrite Heart, confess, or would confess, if thou couldst remember them, and give thee a full Remission of them; and promise thee, with the Retribution of the Just, the increase of Eternal Salvation: And I do also grant to thee, the same Priviledges that are granted to such as go to the Defence of the Holy Land, and do impart to thee the Benefit of the Prayers and Suffrages of the Holy Catholick Church.*

[2.] *Id. ib.*  
The Bishop, by vertue of these Bulls, and Absolutions, raises a great Sum of Money, where with he raises an Army.

By [2] vertue of these Bulls and Absolutions, the Bishop collected a great Sum of Money, besides Jewels, Necklaces, Rings, Dishes, Spoons, and other Silver Implements, especially from Ladies and Gentlewomen; and indeed, many gave beyond their Ability (as some thought) to obtain the Benefit of this Absolution and Pardon for their Sins. Upon this, divers People found Men at Arms, others Archers, and several others went in their own Persons; so foolishly Superstitious were People, even of the best Quality, in those Times, to venture their Lives, and spend their Estates, in the Pope's particular Quarrel, without the least Benefit or Advantage to Religion or themselves thereby. But the Undertakers were, not long after, so much convinced of the Rashness and Folly of this Expedition, that I do not find any Pope, since that time, to have ventur'd upon the like Project, of making *Crusadoes* against his Enemies, or those of the Catholick Church, as He is pleased to stile them: Only I must here further remark, That to publish this Absolution, there was a sufficient number of Preachers sent all *England* over, and also beyond Sea. Besides this, the *Mendicant Friars* were to vend it; and to stir up the People to contribute, went up and down with a Clerk, to take the Names, and recieve Money of their Contributors, not omitting the very Labourers; but we shall speak more of this Bishop's Actions by and by, and in the mean while return to Civil Affairs.



Whilst [1.] this Martial Prelate was making these warlike Preparations, a Parliament, or rather great Council of Peers, was summoned in the beginning of *Lent*, in which it was for some time debated, Whether it was fit to hazard such considerable Forces upon so slight a Quarrel, as the prosecuting of Schismatics against the Pope; those who were for it, urg'd apparent Reasons of State, that now was the time for the King to recover his Right in *France*, and weaken the *French* King, who then lay under Pope *Urban's* Excommunication, for siding with *Clement*; during which, He could expect no Success on his Arms: It remained, I say, very doubtful which way the great Men would incline; but at last, upon hearing that *Antiphone* sung, *Ecce Crucem Domini, fugite, partes Adversa, i. e.* Behold the Cross of our Lord, fly ye Adversaries; they were thereby, as with a Charm, brought over to Vote in favour of the Expedition; and upon this they assigned the *Fifteenth*, given in the last Parliament to be employed herein; and now the Project went on more vigorously than ever, in-  
 so-much (saith my Author) *That in all this spacious Kingdom, there was scarce one Person to be found, that did not either offer his Person, or bestow part of his Goods, for promoting the same.*

The [2.] Bishop's Design in this Enterprize, was to pass over into *Flanders* with the Army that was to be rais'd with this Money, there to assist the *Flemmings*, then in Rebellion against their Earl, and the *French* King, whose Confederate he was; but before this could be put in Execution, the [3.] ill News came over of the routing of the *Gauntois* by King *Charles*; for they having upon his entrance into *Flanders* raised a numerous Train, were by means of their Country-men of *Bruges*, and the Parts adjacent (who joined with the *French* against them) utterly put to flight, and the Siege of *Oudenard* being thereby raised, they were forced to retreat to their City of *Gaunt*, with the loss of above Twenty Thousand Men of their own, and Confederate Forces: But for all this, the Citizens of *Bruges* had little cause to brag of their Victory, for the *French* immediately put Garisons into that, and all other Places that had assisted them, and (according to their usual Custom) treated both their Friends and Enemies with equal Rigour, and especially the *English* Merchants of [4.] *Bruges*, whom they Plundered of all they had; this put off the Bishop's intended Expedition into *Flanders* for some time; but in the mean while the King returned in Triumph to *Paris*, and upon His Entry disarmed the Citizens, and put a great many of them, as well as others to death, who had opposed His raising of some fresh Impositions; but having now perfectly subdued them, He laid new and greater Taxes upon them than they had ever paid before: But to return again to *England*.

[5.] All things being thus concluded for the Bishop's Transportation, about the middle of *May*, he with his Army was ready to put to Sea, the Fleet lying then in *Kent* waiting for a Wind; but the King (whether He resolved quite to forbid him the Voyage, or else thought that Prelate had got too much Money, and so was willing to share with him in it, or for what other Reason I know not) sent him a Writ to come back to know his further pleasure; but the proud Bishop mistrusting the worst, was so intent upon the Affair of his Lord and Master the Pope, that he had no leisure to obey his King; and

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[1.] Id. ib.

A great Council Summon'd in *Lent*, where it was Debated whether it was fit to hazard such great Forces on so slight a Quarrel.But at last they agree in the Affirmative, and appoint the 15<sup>th</sup> given in the last Parliament, for this purpose.[2.] The Bishop's design to pass over into *Flanders*, to assist the *Flemmings* against their Earl, &c.[3.] T. W. ad hunc An. The *Gauntois* are routed by those of *Bruges*, assisted by the *French*.[4.] The *English* Merchants at *Bruges*, are Plundered by them.[5.] Id. ib. The Bishop being to go to Sea with his Army, the King Summons him to come to him, but the Bishop refuses to obey it, and passes over to *Calais*.

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[1.] The Bishop takes *Graveling*, *Dunkirk*, and several other Places, without any opposition.

[2.] He besieges *Ipres*, but is forced to quit it, by reason of a mutiny in his Army.

*Burburgh* tho' new Fortified, is surrendered to the French King upon Conditions.

[3.] *Id ib.* The French come before *Graveling*, and summon the Bishop to surrender it, which he refuses, yet at last demolishes it, and goes for *England*.

[4.] *Id ib.* The Bishop wrote to King *Richard* to send over some more Forces to give the French Battle, who is very hot upon it at first, but presently cools.

and therefore to avoid any more delays, he presently hastened over to *Calais*, from whence, after a few Day's stay there, he marched forward under the Standard of the *Cross*, and besieged [1.] *Graveling*, and took it by Assault, where his Men used great Cruelties; then *Dunkirk* was yielded without much trouble; but some *Flemmings* joining with the *French* and *Bretons*, to the number of about Thirty Thousand, came toward the Town, against whom the Bishop (tho' with a very small Number in respect to theirs) marched out of *Dunkirk*, and gave them Battel, the very Clergymen and Monks who had undertook the *Crusado* Fighting in Person, because they looked upon it as the Cause of God; and tho' some of them were slain, yet at last he took in *Cassel*, *Dixmuyde*, *Burburgh*, *Newport*, and *Popering*, without striking a stroke. Flushed with this Success, he then besieged the Town of [2.] *Ipres* a long time, and assaulted it often, and yet was always repulsed and beaten off, so that at length, whether he would or no, the Army Mutinyed, and raised the Siege, for the major part of it revolted from him, leaving the great Cannon behind them, with one vast one, called the *Canterbury-Gun*; yet after this, the Bishop obtain'd a Victory against the *French*, which was chiefly owing to the Valour and Bravery of the *English* Archers. In this Fight they took a great many Prisoners, and killed about Three (tho' *Walsingham* says Twelve) Thousand; those that remain'd with the Bishop went to *Dunkirk*, and Sir *Hugh Calverly* along with him, and from thence to *Graveling*, whilst Sir *Thomas Trivet*, Sir *William Elinham*, and others marched to *Burburgh* with another Detachment, and Fortified that Place. Some time after the King of *France* came pouring upon them with a mighty Force, and Besieged and Assaulted the Town, but was beaten off with great loss of Men; yet within a few Days after that, the Garison seeing there was no hopes of Relief, yielded up the Place to the Arms of *France*, upon Condition that they might march away with Horse and Arms, and all their Goods, and so they did, to *Calais*.

After [3.] *Burburgh* was taken, the *French* Army marched before *Graveling*, and Summon'd the Bishop to yield the Town, and the *French* offer'd him Fifteen Thousand Marks to quit it, giving him liberty first to Demolish it, and then to depart and go whither he would, and all his Men, with their Goods; but the Prelate desired a short Truce to consider of these Terms, and appointed a Day to give his Answer, and in the mean time sent to *England* for Relief; which not coming at or before the Day, he accepted the Terms, levelled the ground, and came for *England* after *Michaelmas*; and thus ended this *Crusado*, or the Pontifical War.

[4.] But I cannot here omit what *Walsingham* further relates, that during the said Truce, the Bishop of *Norwich* wrote a Letter to King *Richard* to desire Him that he should send over some more Forces to give the *French* King Battel, and compel Him to raise the Siege. The King was then at *Daintry* in *Northamptonshire*, but on the receipt of this News, being at Supper, He instantly arose from Table, and in a great heat took Horse, and rid Post with such speed, that He came to *St. Albans* at Midnight, and there having borrow'd the Abbot's Guelding, He hastned to *Westminster*, making shew as if He would never rest till He had gone in Person, and Routed the *French* King,



King, and all his Army. But being somewhat weary with Riding, He went to Bed, and having taken Advice on His Pillow, was nothing so Fierce the next Morning, but wholly laid aside the thoughts of going Himself, and resolved to send some body in His Room, for which purpose the [1.] Duke of *Lancaster* was Nominated; but he was so tedious in making Preparations, that the Bishop in the mean while was glad to quit *Graveling*, having first dismantled it, and so returned home to *England*, after a vast Treasure spent, and many thousand Lives lost, with as little Glory as he set forth with mighty expectation, the Success of his Arms being suitable to the Ridiculous Occasion of them.

We [2.] shall now return to the Affairs of *England*, where in the mean while the King and His young Queen spent the Summer in Jollity and Youthful Recreations, going on Progress to the Great Abbies about the Kingdom, with an excessive Retinue of *Bohemians*; and lying at the Abbey of *St. Edmunds-Bury* no less than ten Days, it proved too great a Burthen, being both of them presented there, as well as at all the other Monasteries in those Parts, with great Gifts which the Queen bestowed upon her Countrymen. And this, as it was a sign of excessive Easiness, and Prodigality in the King, so it much lessen'd the Esteem His Subjects hitherto had of Him; but to come to Matters of greater Importance.

Some time before the Return of the Bishop of *Norwich*, there were [3.] Writs Issued out, for a Parliament to meet on *Monday* before the Feast of *All-Saints*, or first of *November*; in which Writs it was set forth, That by Advice and Assent of the Council, a Parliament was called for their Mediation and Assistance, in a Treaty of Peace, to be had then between the King, his Kingdom and Subjects, on the one part; and Robert King of Scotland, his Lands, Dominions and Subjects, on the other part; and for other difficult and urgent Business, which concerned Him, the State and Defence of the Kingdom, and Church of *England*.

Then Sir [4.] *Michael de la Pole*, Lord Chancellor, shewed the Causes of this Parliament to be, for that the Truce with the *Scots* was to end at *Candlemas* next. And whereas the Duke of *Lancaster* had been sent to renew it, he was return'd, and brought back word, That the *Scots* would send Commissioners to *London* to Manage the Treaty. [5.] Another Cause was, To provide against Three Powerful Enemies, *Spain*, *France*, and *Flanders*. And here he offer'd several Reasons, to prove it was better for us to begin and make War upon them, than they upon us, or to suffer them to invade us. [6.] Further shewing, that these Wars were not to be imputed to the King, seeing they had descended to Him with the Crown; and the last Clause was, for the maintenance of good Laws, and security of the Peace; then he put them in mind of [7.] giving an Aid to support these great Charges.

Then [8.] the Chancellor spoke to the Lords separately, and told them the King Commanded them to have due Consideration of the necessary Matters that had been declared to them, and of the apparent insupportable Mischiefs, and the great necessity He had for Money to prevent them; and that they should Treat by themselves diligently upon these things, and with as much speed as might be, laying aside the Debate of any other Matter, and to Report their Advice from time

Anno Dom.  
1383.

[1.] The Duke of Lancaster is nominated to go in the King's stead, but before he can go, Graveling was dismantled.

[2.] *Id. ib.* The King and Queen go on Progress, and are very Burthenfom to the Abbays.

[3.] Rot. Claus. 7 Ric. 2. M. 37 A Parliament. summon'd, and for what end.

[4.] Rot. Parl. 7 Ric. 2. N. 3. The Lord Chancellor De la Pole shews the Causes of this Parliament, to advise concerning a Truce with Scotland, and carrying on the War against France and Spain.

[5.] *Id.* N. 45.

[6.] *Id.* N. 6.

[7.] An Aid demanded to support these Charges.

[8.] *Id.* N. 11. He commands the Lords from the first, to consult upon these Points, without falling in to any new Matter.

Anno Dom.

1383.

[1] *ib. N. 12.*

The Lords &amp; Commons

grant the K.

two half fif-

teenthths, on a

certain condi-

tion.

[2] *ib. N. 18.*

The Bishop of

*Normich* is ac-

cused, for his

Miscarriages

in the late

Expedition.

[3] *ib. N. 23.*

And not being

able to clear

himself, is

condemn'd to

be Fined, and

Ransomed at

the King's

pleasure.

[4] *ib. N. 24.*

Sir William

*Ellinkham*, and

divers other

Commanders

in the late Ex-

pedition, are

questioned in

Parliament,

&amp; imprison'd,

for delivering

up several

Places to the

*French* for

Money.

[5] T. W.

The Duke of

*Lancaster* re-

news the

Truce with

*Scotland*, upon

very unequal

Conditions.

[6] Which

are not at

first observed

by the *Scots*;

but being at

last afraid,

they send

Commission-

ers to this

Parliament.

A.D. 1384.

[1.] *Id ib.*;

The Duke of

*Lancaster* re-

turns from his

Ambassie in

*France*.

time to time to Him; and said further, the King Commanded them to Treat from Day to Day, and to dispatch what they came for, and not to depart from Parliament without His special License, under the Peril that might thereupon ensue.

And [1.] the then Lords and Commons considering the Extraordinary Charge the King was to be at, by reason of the War then open on every side, Granted two half *Fifteenths*, upon Condition the Clergy would Contribute and Grant as became them, which they also did.

In [2.] this Parliament the Bishop of *Normich* was accused by the Chancellor in several Articles for his Miscarriages in his late Expedition. The first was, That he had promised to serve the King with such a number of Men for a whole Year, and served but half a Year, and then returned with his Army quite broken; of which Article he could not [3.] clear himself, and therefore was adjudged to make Fine and Ransom at the Kings Pleasure, and the Temporalities of his Bishoprick to be seiz'd for that purpose.

[4.] Sir William *Ellinkham*, Sir Thomas *Trivet*, Sir Henry *de Ferrers*, and Sir William *de Harrendon*, were all likewise accused in Parliament before the Lords, for receiving Money for the delivery of several Fortresses to the *French*; the Sums in the whole amounting to Twenty Thousand *Franks* in Gold. They all made pitiful Excuses, and craved the King's Mercy; so Judgment was pronounced by the Chancellor, That they should refund what they had received to the King, and remain in Prison until they had made Fine and Ransom to Him.

It is also to be Noted, as to the Affairs of *Scotland*, (mention'd in the Record) [5.] that the Duke of *Lancaster* had been sent some time before to renew the Truce with that King; and therein it was agreed, That for the future ease of both Nations, and to save Charges, Commissioners of both Kingdoms should be sent to every Parliament, who should represent the Injuries done to each other upon the Borders, and receive full satisfaction, according to the Judgment of the Lords. Yet notwithstanding, the *Scots* sent not any Commissioners to this Parliament, but did much [6.] Injury upon the Borders, and received Forces from *France*, to join with them against the *English*; but they hearing there were great Preparations making against them, towards the end of this Parliament they sent their Commissioners thither, but they were rejected, and sent Home, without coming to any Treaty at all, since they did not offer any sufficient Satisfaction for the Mischiefs they had done.

The King having kept his *Christmases* with his Queen at *Eltham*, some time after the Holy-Days were over, the Duke of *Lancaster* return'd from his Ambassie in *France*, whither he had been sent not long before, to Treat of a Final Peace; but that proving too difficult to be effected, he could only conclude a Truce until *Midsummer* next ensuing; at which time he engaged to return again, and Treat of an Absolute Peace.



In [1] the beginning of *February*, one *John of Northampton*, alias, *Comberton*, who had been Mayor the Year before, stirred up Sedition in the City of *London*, and went often up and down the Streets with great numbers of People following him; and when the present Mayor, *Sir Nicholas Brembre*, prepared to oppose him, a Shoemaker, one of his Followers, moved the Rabble to stand by him: But this Man, by the Advice of *Sir Robert Knolles*, was taken out of his House, and had his Head cut off, which stayed the Commotion and Insurrection of the People at that time, who (as it was then said) conspired to Murther the Mayor, and many other worthy Men of the City.

Anno Dom.  
1384  
[1.] *Id. ib.*  
*John of Northampton* stirs up Sedition in the City, and is assisted by one *Constantine* a Shoemaker, who was taken and Executed.

This Shoemaker's Name was *John Constantine*, who was the Cause of divers great Disturbances and Insurrections in the City: But there is a mistake in our Historians; concerning the Circumstances of this Action: for it appears [2] from the Record, that he was not drawn out of his House, and presently Beheaded, by the Advice of *Sir Robert Knolles*, tho' 'tis very probable, he might be the Person that did seize, or order him to be seized; but he was taken on the Eleventh of *February*, at the Head of the Rabble, and carried presently to the *Guild-hall*, and Arraigned as one of the first Movers of Sedition, by Witnesses Sworn, and Examined; and upon his own Confession, was adjudged to Death, and had his Head cut off, which Judgment was presently [3] Recorded, and was afterwards confirmed by the King. As for *John Northampton*, he was sent to *Corf-Castle*, there to be kept Prisoner, until the King, by Advice of his Council, should otherwise dispose of him.

A mistake in the Circumstances of this Action.  
[2.] *Roi. Parl.*  
*7. Rich. 2.*  
*M. 16.*

In [4] *Lent* the Duke of *Lancaster*, and his Brother the Earl of *Buckingham*, with a very great Force of Knights, Esquires and Archers, advanced towards *Scotland*; but stayed so long upon the Borders, till all their *Viſtuals* were consum'd, whereby the Inhabitants receiv'd more Injury from the *English* Army, than by the Invasion of the *Scots*; yet, toward *Easter*, he enter'd *Scotland*, but, by his Delays, the *Scots* had time enough to secure their Goods and Persons; so finding nothing but Hunger and Cold, they returned with no good Reputation, having lost divers Men and Horses: After their Departure, the *Scots* Invaded the North-Parts, plunder'd the Country, and burnt many Towns, as the *English* had done in *Scotland*.

[3.] *Roi. Claus.*  
*cod. An. M. 9.*

[4.] *T. W.*  
The Duke of *Lancaster* and his Brother, make an unfortunate Expedition into *Scotland*.

Alter [5] this, there was another Parliament, or rather Great Council of Lords, holden at *Salisbury* on the *Friday* after *St. Mark*, or Five and Twentieth of *April*, in which (as *Walsingham* relates) a *Carmelite* Friar and Batchelor of Divinity, made a Discovery in Writing to the King, of a Design the Duke of *Lancaster* had to destroy his Majesty, and usurp the Crown; but the King advising about the same only with certain of his Chaplains, and the Duke coming in upon them on the sudden, they thereupon Counsell'd the King to communicate to him the Articles of the Accusation; upon the sight of which, he boldly denied them, and so well cleared, or seem'd to clear himself, to the King's Satisfaction, that the Friar was committed to the Custody of the Lord *John Holland*, and then on the Evening before the Hearing should have been, he was found most cruelly Murthered; and that by so horrid a Death, that it is better omitted than related: The next Morning the Friar's Body was dragg'd about the Streets, as a Traytor's, at a Horse's Tail, thereby to take off all Suspicion of his being made away; Vol. III.

[5.] *Roi. Claus.*  
*7. Rich. 2.*  
*M. 10.*  
A Council held at *Salisbury*, where a *Carmelite* Friar accused the Duke of *Lancaster* of Treason.

He clears himself for the present, and the Friar being committed to Custody, is found cruelly Murthered.

and

*Anno Dom.* 1384. and so this Business was all huddled up: But that which tended very much to the Duke's Innocency was, That the Lord *Zouch* was likewise accused by the same Friar, as Guilty of being privy to, and promoting the said Treason; and being Sick, was fain to be brought thither in a Litter, and examined before the Lords, where he utterly denied, and that upon Oath, all that he was accused of; and that he had never heard, or so much as thought of any of those things whereof he stood accused; whereupon, he was acquitted, and permitted to return home, which he did, and therefore became an utter Enemy to all Friars of that Order.

The Lord *Zouch* being likewise accused of the same Fact, clears himself.

But however, this Information (if true) shews, that sometimes it proves even more dangerous to discover Treasons, than to act them; tho' possibly, this whole Accusation might be a Contrivance of this malicious Friar, set on by the Duke's Enemies, to render him suspected by the King, and odious to the People; for it is certain, they entred, not many Months after, into a formal Design against his Life; [1] the occasion whereof I do not find mentioned by our Writers; but only that the King, by the Instigation of his Young Cabinet Councillors, had conceived some Displeasure against him; and that they had conspired to take away the said Duke's Life; in order whereunto, certain Crimes were suggested, Appellors prepared, and 'twas agreed that he should be suddenly Arrested, and brought before Justice *Tresilian*, who had boldly undertaken to pronounce Sentence upon him, according to the quality of the Matters that were to be objected against him, tho' by Law he could not be tryed but by his Peers, and so Execution should immediately have followed: But the Duke being forewarned of these Contrivances, hastned to his Castle of *Pomfret*, and there stood upon his Guard: But the Princess, the King's Mother, considering the Dangers that would ensue upon such a Rupture, took great pains by Riding (notwithstanding her Years and Corpulency) to and fro, between the King and him, to pacify and reconcile them; and at last brought them to such Terms, that all appearance of Displeasure on the one part, and Distrust on the other, was for that time removed.

[1] *Id. ad An.* 1385. The Duke of *Lancaster* being informed of a design against his Life, stands upon his Guard.

But is again reconciled to the King, by the means of the Princess his Mother.

[2] *Id. ib.* About [2] the beginning of *August*, the Duke of *Lancaster* went over again into *France* in great State, to treat about a Peace; and tho' he staid there some time with many Noblemen in his Company, yet he only obtained a Truce to the First of *May* next coming, and then returned home, after the expence of Fifty Thousand Marks, to little purpose.

[3] *Id. ib.* *John* of *Northampton* being found Guilty of many Misdemeanors, is condemned to perpetual Imprisonment.

While [3] the Duke was in *France*, the King called many of his Noblemen together at *Reading*, where *John* of *Northampton* was tried for his late evil Practices in *London*, and Convicted by the Testimony of his Household-Clerk; and Sentence being to be given upon him in the King's Presence, he said such Judgment ought not to pass upon him in the Absence of his Lord the Duke, viz. of *Lancaster*, which rendred him also suspected; but the Judge told the Criminal, that he was to acquit himself by Duel, of the Crimes laid against him, or else by the Laws of the Land, to be Drawn, Hang'd and Quarter'd; to which making no Answer, he was Condemned to perpetual Prison, above One Hundred Miles from *London*, and sent to *Tintagel*-Castle in *Cornwal*, and his Goods to be seized to the King's Use.



On [1] the Morrow of St. Martin, or Twelfth of November, a Parliament was assembled at Westminster; where the Chancellor shew'd the King's great Care of the Church, Commons, and Laws of England; and further shewed, how the Nation was environ'd with Enemies, the French, Spaniards, Scots, and Flemmings; and that the chief Cause of calling the Parliament, was to provide for the Safety and Defence of the Kingdom, and to consider how this Provision might best and most speedily be rais'd, so as the poor People might be least burthened; and withal he let them know, that he would go in his own Person, for the defence of the Kingdom, against any Enemy, by the Advice of his Council.

These [2] things being maturely considered, the Lords and Commons granted the King, for the Defence of the Realm, the Safe-guard of the Sea, and Marches of Scotland, two Fifteenths; one to be paid at Lady-day next coming, the other at Midsummer; upon condition, that the last half Fifteenth granted at Salisbury, might not be paid; and in case the King went not in his own Person against his Enemies, or that Peace or Truce should be made with them, then the latter of these two Fifteenths should not be levied.

In [3] this Parliament Dame Alice Perrers, or Peirce, now the Wife of Sir William Windsor, Petitioned to have the Sentence and Order given against her, in the Fiftieth Year of Edward the Third, and the Judgment and Statute made in persuance thereof in the first of this King, to be repealed; and that she might be restored to all her Lands and Tenements, which was granted by Advice and Assent of the Lords and Commons, so as the Gifts and Grants already made by the King of any of their Lands, Tenements and Houses, may remain in Force.

I find nothing else considerable to have been transacted in this Parliament; [4] but that during the Session of it, News came of the surprize of the Castle of Berwick by the Scots, it being sold for a Sum of Money by the Deputy-Governor to the Earl of Northumberland; for which he, tho' Absent, was Accused; and, by the procurement of the Duke of Lancaster his Enemy, found Guilty of Treason which was very hard; indeed he had been summoned to this Parliament, but did not appear, because he chose to stay in the North for the defence of his Country, therefore he was not long after pardoned by the King, tho' much to the Duke of Lancaster's Displeasure, which also was the occasion of a fresh Quarrel between those two Noblemen; but so soon as the Earl was pardoned, and restored to his Estate, he raised a considerable Army, and therewith marched to the Siege of that Castle; which he not being able to take by open Force (it being now the depth of Winter) recover'd the same way it was lost, making Articles with the Officers that were besieged in it; that upon the surrender of the Place, they should not only have their Lives and Goods saved, but receive Two Thousands Marks of English Money pay'd them by the Earl, which was done accordingly; and thereby he learn'd (tho' by dear-bought Experience) to take more care of that considerable Fortress for the future.

What happened most worth our Noting in foreign Parts, is, That [5] Lewis, Duke of Anjou, Brother to the King of France, who had been not long before made King of Sicily, by Clement the Antipope, after the seeing himself again defeated by his Adversary Charles, and having spent in this fruitless Expedition a vast Sum of Money, besides

Anno Dom.

1384.

[1] Rot. Parl.  
8. Rich. 2. N.  
1. 2. 3.A Parliament  
summon'd, the  
causes of which  
are declared  
by the Chan-  
cellor.

[2] Ib. N. 10.

The Lords  
& Commons.  
grant the K.  
two Fifteenths  
for the defence  
of the Realm,  
and guard of  
the Seas, &c.

[3] Ib. N. 13.

Alice Perrers  
petitioned to  
have the for-  
mer Sentence  
given against  
her in Parlia-  
ment, rever-  
sed, which is  
granted.

[4] T. W. ib.

Berwick be-  
tray'd to the  
Scots, by the  
Deputy-Gov-  
ernor to the  
Earl of Nor-  
thumberland;  
for which he is  
found Guilty  
of Treason by  
the Parlia-  
ment, but is  
pardoned by  
the King.The Earl not  
being able to  
take the Ca-  
stle by Force,  
bribes the De-  
fendants to  
surrender it.

[5] Id. ib.

Mezeray.  
The decease  
of Lewis Duke  
of Anjou.



*Anno Dom.* the loss of innumerable Lives, being disappointed of his Design, in  
 1385. conquering the Kingdom of *Naples*, Died in *Italy* with great Grief  
 and Discontent of Mind, in Autumn.

[1] *Id. ad hunc An.* This Year [1] the King kept his *Christmasts* at *Windsor*, with his  
*Chron. de Lam-* Queen, of whom He was so fond, that He would scarce endure her  
*betib.* out of his Sight ; but her Countrymen, the *Bohemians*, that came with  
 Her, having tasted the Sweetness and Riches of *England*, had no mind  
 to return home, but continued here, to the great Grievance and Bur-  
 then of the Kingdom.

[2.] *Id. ib.* In [2] the beginning of the Spring, the Lord *Edward le Bourser* was  
 dom. sent over to *Gaunt*, at the desire of the Citizens there, to command the  
*The Lord Le* Forces of that Place (which was then in Rebellion against their Earl)  
*Bourser is sent* where this Lord, upon the People's Swearing Fidelity to King *Richard*,  
 over to com- marched out against the *French*, and routing a small Army of theirs,  
 mand the behaved himself with great Generosity ; hindred the *Gauntois* from  
*Gauntois, who* maiming their Prisoners, as being against the Laws of War, tho' the  
 under his Conduct rout an Army of *Frenchmen*. *French* had used the *Flemmings* in the like manner not long before.

After this time I find nothing considerable to have happened (the  
 time passing away at Court in great Jollity and Security) till the be-  
 ginning of *June*, when [3] News came of a formidable Invasion from  
 [3] *H. K.* *France* ; and that *John de Vienne*, their Admiral, was sailed from thence  
 Col. 2674. with a large Fleet, and had transported great Forces into *Scotland*, to  
 News of a formidable join with the *Scots*, to invade *England* : Whereupon, [4] the King forth-  
 Invasion from *France*, by the with prepared an Army to march into *Scotland*, and sent the Duke of  
 way of *Scot-* *Lancaster* with a good Force before, to secure the Borders. Then, on  
 land.

[4] *Id. Col.* the Seventh of *July*, the King came in Person to *Leicester*, and the  
 2675. Queen with Him, where He was attended by the flower of the *English*  
 Whereupon *Militia*, as Earls, Barons, Knights, and others, to a vast Number,  
 King *Richard* who made noble Preparations for them, at which the King was ex-  
 Musters a tremely pleased ; but when He arrived at *Tork*, that Satisfaction was  
 great Army, very much abated, by reason of an unhappy Accident which then fell  
 to invade that Kingdom.

[5] *T. W. ib.* out ; for [5] a Quarrel arising between the Lord *John Holland*, the  
 Sir *Ralph de* King's half Brother, and Sir *Ralph de Stafford*, eldest Son to the Earl  
*Stafford*, being killed by the of that Name ; the former meeting the latter upon the Road, as he  
 Lord *John* was going to the Queen (whose menial Servant he was) killed him  
*Holland*, the on the spot, and that not very fairly ; at which the King (with whom  
 King is so the Deceased had been bred up) was so highly incensed, that He com-  
 displeased, manded his Brother to be seized, and his Goods to be Confis-  
 that he com- cated ; but this Young Lord, finding the Tide run so high against  
 mands his him, avoided the Storm, by taking Sanctuary at *Beverly* : When the  
 Person to be Princess (Mother to the King, as She was also to this Nobleman)  
 seized. heard this ill News, She presently sent Messengers to his Majesty, to  
 The King's intercede all they could for her Son, and to beg his Pardon ; but the  
 Mother sues King was still so angry at him, that He absolutely denied her Request ;  
 for his Pardon, this Answer which the Messengers brought her to *Wallingford*, She  
 but being de- took so much to Heart, that it cast her into a fit of Sickness, of  
 nied, it proves which, within Four or Five Days, She Deceased. Her Body, after it  
 her, Dea. h. was Embalmed, was Preserved till the King's Return from *Scotland*,  
 when it was solemnly Buried in the Church of the *Friars Minors* at  
*Stanford* : But after this, the King's Fury against his Brother, lessen'd  
 by Degrees. I will now return to the King's Expedition.



The [1.] King enter'd *Scotland* about the beginning of *August*, Anno Dom. 1385. though to little purpose, for either He could not find the *Scots* at all, or at least could not follow them into their Woods, Bogs, and Fastnesses in the *High-lands*, whither they were gone, and had driven their great Cattle with them. But finding nothing in the Country, He burnt *Edinburgh*, and several other Towns, cut down much of the Woods, and burnt them. But when the Duke of [2.] *Lancaster* would have perswaded the King to have imitated His Grandfather King *Edward*, in carrying His Arms beyond the *Scottish* Sea, or *Friche*, and in totally reducing that Kingdom, the King was so far from hearkning to him, that suspecting the Duke gave Him this Advice only to ruin Him, and His Army, for want of Victuals (the Provisions and Forage being all destroyed on that side,) return'd the Duke very sharp and upbraiding Language upon that Subject; whose Answers, notwithstanding they were temper'd with great Duty, and Modesty, yet had so little effect, that the Lords there present had a difficult Task to [3.] reconcile the King to him, tho' they compass'd it at last. But there being no more to be done this Campaign, the King return'd home into *England*; and indeed it was high time for Him to do so; for while these things were Transacting in [4.] *Scotland*, the *Scottish* and *French* Forces slipping by the *English*, entered the *West Marches*, burnt *Penrith*, Plunder'd the Country, took many Prisoners, and made an attempt upon *Carlisle*. But hearing of the coming of the *English* Army, they got again into their own Country; but carried more out of *England*, than the King with His Royal Army could do out of *Scotland*, tho' they had the Plunder of the Capital City of the Kingdom into the Bargain. Upon such unequal Terms must a Richer Nation make War upon a Poorer, as War-like as themselves.

[5.] While the *English* Army was thus in *Scotland*, the King of *France* was providing a mighty Fleet and Army at *Sluis* in *Flanders*, to Invade *England*, and had certainly done it, whilst the King was absent, had He not been hinder'd by the Wars of *Flanders*; for the *Flemmings* were now weary of the *French*-Yoke, (of which Nation, my Author makes this Observation,) That wherever they have Power, they Treat their Subjects with the highest Insolence, and Oppression. And this so provok'd the *Gauntois*, that taking up Arms on the suddain, they surpriz'd the strong Town of *Dam*, the Inhabitants betraying it to them, wherein they found a great Magazine of Wine, and other Provisions, and placed in it a strong Garison. At which the King of *France* was so incensed, that quitting for a time his Design against *England*, He immediately marched to Reduce that Place; and tho' he received divers Repulses, yet the *Flemings* finding they could not long maintain it against so great a Force, took the opportunity of Marching away in the Night, and returning to *Gaunt*, after they had spoiled the Wines and Provisions they left behind: And tho' the *French* King thus recover'd the Place, yet *England* received that Advantage by this delay, that Winter being now pretty well advanced, the *French* King was forced to defer his intended Invasion to the next Year, when He again reassumed it, tho' with no better Success, of which we shall say more hereafter.

[1.] *Id ib.*The King enters *Scotland*, where finding the Country deserted, he burns *Edinburgh*, and destroys the Country.[2.] The Duke of *Lancaster* advising the King to prosecute the War in *Scotland*; He looks upon it as a design to ruine him, and falls out with the Duke.[3.] The K. is reconciled to him, and returns into *England*.[4.] The *Scots* Invade the Western Marshes, burn *Penrith*, and carry away many Prisoners; but upon the King's approach, retire home.[5.] *Id ib.* The *French* were like to Invade *England*, during the King's Absence, had not a suddain Insurrection of the *Flemmings* prevented him.

*Anno Dom.* In the mean while the King [1.] held a Parliament at *Westminster*  
1385. on *Friday* next after *St. Luke's Day*, in which the *Lords, Great Men, and*

[1.] *Rot. Claus.* Commons of Counties, Cities, and Burghs, Granted to the King, for  
9. *Rich. 2.* the Voyage of *John*, King of *Castile* and *Leon*, and Duke of *Lanca-*  
M. 45. *dorf.* ster, into *Spain*, and safe keeping of the Sea, and Marces of *Scot-*  
A Parliament land, a Tenth, and a Fifteenth, and half a Tenth and Fifteenth: the  
Summon'd. former to be paid at *Midsummer*, for the Receipt and Expending  
9. *Rich. 2.* whereof, there were special Treasurers appointed in Parliament, and  
10. *Rich. 2.* Supervisors to see it done; and this Voyage into *Spain* was declared  
wherein the to be agreed upon by the King, Prelates, Noblemen, and Commons  
Lords and granted the  
Commons K. a Tenth, and  
a Fifteenth, &c.  
and for what  
uses.

[2.] *ib. N. 14.* In which also the King's Uncle, [2.] *Edmond* Earl of *Cambridge*,  
The Earl of being Created Duke of *Tork*, was Confirm'd in that Title, and had a  
Cambridge is Grant from the King of a Thousand Pound a Year to support his  
declar'd D. of Dignity, to be paid out of the Exchequer to him, and his Heirs Male,  
of until the King could settle Lands upon him; and his Heirs, &c. of  
*Tork*, and the the like value. Then also *Thomas* Earl of *Buckingham* and *Essex*, the  
E. of *Bucking-* King's other Uncle, being Created Duke of *Gloucester*, was Confirm-  
ham Duke of ed in that Title, and had a like Gift and Settlement to support his Dig-  
*Gloucester.* as his Elder Brother.

[3.] *ib. N. 16.* [3.] *Michael de la Pole*, being before Created Earl of *Suffolk*, was  
*Michael de la* also Confirm'd in that Dignity; and for the support of his Honour,  
*Pole* is also had a Grant of Twenty Pounds a Year out of the Farm of the  
confirm'd in County, and Fifty Pounds a Year out of the Estate of the former  
the Earldom Earl (which had escheated to the King for want of Heirs,) af-  
of *Suffolk.* ter the decease of the Queen, and [4.] *Isabelle* Countess of *Suffolk*.  
[4.] *ib. N. 17.* And lastly, *Robert de Vere*, Earl of *Oxford*, the King's Favourite, was  
*Robert de Vere* now by an unusual Title, Created Marquess of *Dublin*, and was  
Earl of *Oxford*, Confirm'd in that Title, together with the Grant of all the Revenues  
is created Marquess of of *Ireland*, &c. except some Royalties reserv'd to the Crown, paying  
*Dublin.* Five Thousand Marks Yearly into the Exchequer.

[5.] Which The [5.] Advancement of this Nobleman to so high a degree of  
raises a great Honour, created a great deal of Envy and Discontent among the  
deal of Envy Nobility, as being a Young Man, no ways remarkable either for  
and Discon- Prudence or Valour, and had no great matter to recommend him to  
tent among the King's Favour, but a Noble Extraction, and a handsom out side;  
the Nobility. and this extraordinary fondness upon that Account, was the occasion  
of a great deal of Scandal, both upon the King, and this His  
Minion.

But I cannot here omit that (if what *Knyghton* relates be true) all  
[6.] The these Noblemen above-mentioned, were before Advanced to those  
making of new Titles and Dignities, when the King was in *Triviale*, upon His  
Noblemen in last Expedition into *Scotland*; which plainly shews, that what was  
Parliament, done afterwards in [6.] Parliament, was rather a Confirmation than  
rather a con- a new Creation of them; and that this was then look'd upon, not  
firmation than only as the most unquestionable, but also the most honourable way  
creation, of of being confirm'd in any great Dignities, or Titles of Honour.

[7.] *ib. N. 32.* [7.] In this Parliament also the Commons Petition'd the King,  
The Com- That the State of His Household might be viewed, and looked into  
mons Petition every Year by the Chancellor, Treasurer, and Clerk of the Privy-  
the King that Seal, and what was amiss, to be amended at their Discretion: And  
the State of  
His Household  
might be re-  
viewed, by His  
Great Offi-  
cers.



also that the Statutes of Antient time made concerning the Household, *Anno Dom.*  
might be kept, and duly examined in all their Points. 1385.

As [1.] to the first Article of the Petition, this Answer was, That the King would do it when He pleased. As to the Second, the King grants, and it was also at the same time Enacted, That all Lords, and other Persons, having any Lands on the Marces beyond Time, do dwell thereupon, saving that the King may shew Favour to whom He pleases. The Commons further desire to know who should be the King's Chief Officers, and Governors of the State of the Kingdom: The Answer was, The King had Officers enough at present, and would change them at his Pleasure: After which, this Parliament was Dissolved.

In Ecclesiastical Affairs we find nothing Considerable, only that *William de Courtney*, Archbishop of *Canterbury*, having about the beginning of this Year [2.] fallen under the King's Displeasure, He Com-  
manded his Temporalities to be seized into His hands, which had been done, if the Lord *de la Pole*, then Chancellor, had not opposed it; at which the King was for a time much displeased. He also gave Sir *John Devereux* very contumelious Language, for offering to intercede for him; wherefore the Archbishop prudently retired from Court, and lived privately at home, 'till he had made his Peace with the King. This I take notice of, that the Reader may hence observe, of how Wilful and Arbitrary a Temper this young Prince was, and which afterwards increased, and shewed it self in many other Instances, as you will find in the sequel of this History.

[3.] As for other Church-Matters, nothing happened worth our Remark, but that about the beginning of this Year, *John Wickliff* deceased of a Palsie, to the great joy of the Monkish Writers of those Times; who (as they never fail'd to do towards their Enemies) ascribed his Death to the Judgment of God, and that as a Punishment for his Heretical Preachments, the use of his Tongue was taken from him. [4.] He was Buried at his own Parish-Church at *Lutterworth* in *Leicestershire*, where his Bones rested in Peace until Forty one Years after; and then by a Decree of the Council of *Constance*, they were dug up, and burnt, as those of a Heretick.

As [5.] to Foreign Affairs, I have little else to observe, only that the King of *Portugal* having lately obtain'd a great Victory with a handful of Men, (part of which were *English* Auxiliaries) against the vast Army of *John* King of *Castile*, in the Plain of *Juberoth*; and having afterwards Summon'd an Assembly of the Estates to meet at *Lisbon*; they finding themselves too weak alone to encounter the Forces of *Castile*, resolv'd to send over Ambassadors into *England*, to Sollicit the King to send them a speedy Assistance against their Common Enemy. These Ambassadors were kindly received, and a Powerful Aid was promised to be sent them, under the Command of the Duke of *Lancaster*, who was resolv'd to lay hold of this Opportunity to renew his Claim to the Kingdom of *Castile*, in Right of his Wife, Eldest Daughter to *Peter* late King thereof. But this Expedition was not undertaken 'till the Summer following.

The [6.] King having kept His Christmas at *Eltham* with His Queen, there came thither to Him *Leo* King of *Armenia*, who had been driven out of his Kingdom by the *Tartars*. His Pretence was

[1.] *ib.* The King's Answers to these Petitions, and what was further enacted in this Years Parliament.

[2.] The Bishop of *Canterbury* falls into the Kings displeasure; who is 'also angry with the Chancellor, and Sir *John Devereux*, for interceding for him.

[3.] *Id. ib.* The Decease of *John Wickliff* of a Palsie, which is made a Judgment by the Monkish Writers.

[4.] *Foxes* Acts and Monuments, Vol. 1. P. 606. Edit. 1641.

His Bones are afterwards taken up and burnt.

[5.] T. W. *Froiss.* 3. Vol. C. 15. 27.

The King of *Portugal* having obtain'd a great Victory against the King of *Castile*, by the Assistance of the *English*, send an Ambassador to *K. Richard*, for more Forces.

*Anno Dom.* 1386.

[6.] *Ad hoc* to An.

*Anno Dom.* 1386. to Mediate a Peace between the Kings of *England*, and *France*, but his real Business was to get Money; in which he succeeded so well, that he obtain'd from the King a Pension of a Thousand Pounds a Year, during his Life. But when he would have returned again toward the latter end of this Year upon the same Errand, the Peers of the Kingdom being then Assembled in Parliament, looking upon him only as a Deceiver, told the King plainly, they would not Treat with him, and so his coming over was stop'd.

Leo King of Armenia comes into England for Aid to recover his Kingdom from the Tartars, and is nobly presented.

[1.] H. K. Col. 2676. The Duke of Lancaster with his Wife, as King and Queen of *Castile*, take their leaves of the King, who presents them with golden Crowns.

Then [1.] on *Easter Day* next ensuing, the Duke of *Lancaster*, as King of *Castile*, with the Princess *Constance* his Wife, came to take leave of the King, on whom He bestowed a Crown of Gold; and the Queen gave another to the Dutcheß his Wife, as Queen: And the King Commanded all about Him, to Stile and Honour him as a King. Then on the Ninth of *July*, all things being prepar'd for the Expedition, he set Sail with near Twenty Thousand Men for *Spain*; whereof in the Marshal's Rolls, Two Thousand were Men at Arms, and Eight Thousand Archers; in which Army several Great Noble-men were the Chief Officers. He took with him his Queen, Eldest Daughter and Heir of the late *Peter King of Castile*, (of whom you have heard so much in the last Reign) and both his Daughters; the one by his former Wife, the other by this.

[2.] T. W. The Duke further obtains a *Crusado* from the Pope against the King of *Castile*.

And [2.] this Titular King, or Duke, now obtain'd so much from Pope *Urban*, that out of hatred he bore to *Henry the Bastard King of Castile*, who denied his Authority, by siding with his Rival, He further granted to the Duke a like Indulgence, or Remission of Sins for all such as would assist or accompany Him in this Expedition, as had been granted before by the Bishop of *Norwich*, when he went over to make War against the *French King*. [3.] But this Indulgence, tho' Solemnly Publish'd at *St. Paul's Church*, did the Duke little or no Service, for the frequent Dispensations and Abuses of these Indulgences, had rendred them so contemptible, that few would contribute any thing to this pretended *Crusado*. From whence we may observe, that some Pious Frauds are so gross, that when too often repeated, they cloy and disgust even the most Superstitious *Voluntaries*.

[3.] The Indulgence for it is Publish'd in *St. Paul's Church*, but doth little service to the Duke.

[4.] *Id ib.* The Duke Lands in *Bretagne*, and receives *Brest*.

[5.] *Frois.* 3 Vol. c. 32. The Duke Sails from thence for *Spain*, Lands at the *Groine*, and there dismisses his Fleet.

[6.] He marches from thence to *Compostella*, which being surrender'd to him, he there makes his Residence with his Dutcheß.

But to say somewhat of this Expedition; [4.] the Duke with his Army first Sail'd into *France*, and Landing his Forces in *Bretagne*, reliev'd *Brest*, which was then Besieg'd by the Duke of that Country; tho' in taking a Wooden Fort, which commanded the Castle, some Men of Quality, with other Soldiers, were lost by the fall of a Tower. From [5.] hence the Duke Sail'd forward for the Coast of *Spain*, and Landing at the *Groyne*, in *Galitia*, the Citizens thereof submitted themselves unto him; but the Castle, being Man'd by a Garison of *Frenchmen*, who were in the Service of the King of *Castile*, could not be taken. Then the Duke having Paid off his Fleet that Transported him, and his Army, dismiss'd it; and when he had rested, and well refresh'd his Men from the fatigue of so long a Voyage, [6.] He marched from the *Groyne* with his Army, to the City of *Compostella*, commonly called *St. James of Galicia*, from that Saint's Body, which is suppos'd to be there enshrin'd. This City having no Garison in it, was surrender'd upon Summons to the Duke and his Dutcheß, as Right Heirs of *Castile*, and here they took up their Quarters, and

continued



continued for the greatest part of the time they were in *Spain*, [1.] and he spent the rest of this Summer, and the Winter following, in taking the Towns of *Villeclope*, and several other Places in that Province, most of which were deliver'd by Composition, on Articles, for want of Men to defend them; and some few were taken by Storm, and the Garisons put to the Sword.

[2.] Whilst the Duke continued at *Compostella*, he sent certain Envoys to King *John* of *Portugal*, to let him know, that being arrived in *Spain* with a sufficient Army to assist Him against the Usurper of *Castile*, He desired to have a Personal Interview with him in a short time; which being easily agreed to by that King, they met presently after at a Bridge called *Ponte de Moro*, on the Frontiers of *Portugal*; where they Treated, and Conversed for two or three days under a Pavilion erected for that purpose; and it was then agreed between them, that the King of *Portugal* should Marry *Philippe* Eldest Daughter to the Duke by his former Lady, and that the Armies should lie still until the beginning of *March*, when they were to join their Forces, and making up about Thirty Thousand Men, should march out to Fight the King of *Castile*; and then these two Princes having treated each other very magnificently, took their leaves, the King of *Portugal* going to *O-porto*, and the Duke returning to *Compostella*.

But [3.] notwithstanding, this Treaty did not take effect till the Year following, for the *French* King having promised the King of *Castile* a great Assistance against the Duke of *Lancaster*, yet defer'd the sending of it this Summer, because He was engaged in making mighty Preparations to Invade *England* with a vast Army, as you will find anon; and that being Conquer'd (as they made sure of it) they should then easily drive the Duke and his Forces out of *Spain*. So that the Fame of this terrible Invasion being heard in *Portugal*, the wary Prince would not conclude this Alliance with the Duke, till he heard the Success of the *French* Expedition against *England*; which being disappointed, and that Fear over, [4.] the King of *Portugal* sent his Ambassadors to *Compostella*, one of whom was betrothed to the Lady *Philippe*, as Proxy for the King his Master, who when she was brought to *O-porto*, Married her with great Solemnity in the Cathedral Church of that City.

After which, tho' the Duke of *Lancaster* subdued the greatest part of *Galicia*, partly by his own Forces, and partly by those of *Portugal*, and that without any considerable Resistance made by the King of *Castile*, who was advised by his *French* Commanders not to act any thing till the arrival of an Army of their Country-Men, who were daily expected; yet for all this, before the end of the next year, the *English* Army under the Command of the Duke of *Lancaster* was so wasted by the diseases of that Country, that not being able to act any thing further considerable, he was fain to enter into a Treaty with *John* King of *Castile*, Son to *Henry* the Bastard, and to quit all his Right to that Kingdom, upon certain Conditions, as you will find hereafter. But thus much I thought fit to relate concerning this Expedition into *Spain*, which was of more Honour than Advantage to *England*, that certainly was very much weakned, by being deprived of so many gallant Men, at a time when the Nation had so much need of them against their Enemies the *French*, to whose Affairs we shall now return, as well as those of *England*.

[1.] King

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1386.

[1.] *Id ib.*  
C. 38. 49.

He takes several other Towns in *Galicia*.

[2.] *Id.* C. 33, 39.

He sends Envoys to *Portugal*, to desire an Interview with him, which is perform'd; with what is agreed at it.

[3.] *Id.*  
C. 40, 41.

This Treaty did not take any effect till the year following, and why.

[4.] *Id.*  
C. 54, 55.

The King of *Portugal* sends Ambassadors to *Compostella*, where he is by Proxy betrothed to the Lady *Philippe*, Daughter to the Duke.



Anno Dom.

1386.

T. W. Ad  
kunc An.The Lord  
Piercy is sent  
Governor to  
Calais, and  
makes several  
fortunate In-  
cursions into  
Picardy.The French  
King provides  
a great Fleet  
and Army to  
invade Eng-  
land.A vast wood-  
en Fortifica-  
tion made by  
the French, is  
taken at Sea,  
and set up at  
Winchelsea.

King. *Richard* having this Summer heard a Report, that the *French* had a design to besiege *Calais*, for the Security of that important Place, immediately sent *Henry Lord Piercy*, Son to the Earl of *Northumberland* (whom my Author calls the Pattern of all Vertue and Martial Prowess) Governor thither, who soon after his Arrival, made divers fortunate Incursions into *Picardy*, carrying away a great deal of Booty without any Resistance. But soon after, this Lord made hast to return and defend his Native Country, which, he heard, this Summer was under great Consternation, and frequent Allarms, by reason of a terrible Invasion threatned by the *French* King; who had prepared a vast Navy, and a mighty Army, on that Design; which being got ready at *Sluis*, lay waiting an Opportunity to pass the Channel; and the better to secure their Men at their first Landing in *England*, they had framed a wonderful Wooden Wall, Three Miles in compass, being no less than Twenty Foot high, and of a proportionable thickness, in which they were to have inclosed their Camp. But it happened luckily, that the Lord *Beauchamp*, Captain of *Calais*, took three of their Ships, laden with part of the said Inclosure, which the King caused to be set up round about *Winchelsea*, for Security of that Town; and also, he took another Ship full of great Guns, and other Instruments of War: This, tho' it somewhat discourag'd the *French* King's Design, yet did it not make Him wholly lay aside the Prosecution of it all the rest of this Summer, had He not been kept back by contrary Winds, as you will find anon.

[1] *Id. ib.*  
The Chancellor,  
on the News of this  
Invasion, causes  
great part of the  
Militia to be brought  
up towards  
*London*, who  
living on free  
Quarter, became a  
great Burthen to  
the People.

Some [1] time after this, and whilst the Fears of a *French* Invasion were continued, *Michael de la Pole*, now created Earl of *Suffolk*, and Chancellor, (whom the King too much confided in) caused a great part of the *Militia* of the Kingdom, to be sent for up towards *London*, to repel the *French*, if they should Land: These Forces consisting of Men at Arms and Archers, were quartered within Twenty Miles round the City, where they did almost as much Mischief as an Enemy, for having no Money to pay for their Quarters, they lived at Discretion, to the great Burthen and Impoverishment of the Neighbouring Counties, till at last they were fain to return home, many of them being forced to sell their Horses and Arms, and others to rob for Subsistence, to carry them back; yet the great Men of the Kingdom continued still at *London*, attending the Motions of the *French*, and expecting the Meeting of the Parliament.

[2] *Id. ib.*[3] *Rot. Parl.*  
10 Ric. 2.  
M. 12.The Marquess  
of *Dublin* is  
created Duke  
of *Ireland*.

Some time before which, [2] *Robert de Vere*, who had been in the last Parliament, [3] created Marquess of *Dublin*, was now advanced to the unheard-of Honour of Duke of *Ireland*, with a Grant of the Profits and Government of the whole Kingdom, Saving only to the King the Superior Dominion thereof: This gave the People occasion to talk, as if some obscene desire was the occasion of so great an Affection to a Person, more remarkable for his handsome Mein and outward Appearance, than his Vertue; whilst the Nobility murmur'd, and were highly incens'd, to see a Man so much below them in other Endowments, advanced so much above them. But this new Honour did not last long, as you will find hereafter.



*Froisart* also relates, [ 1 ] That after the danger of the French Invasion was over, there were not only great discontents and murmurings among the common People, against the new Favourites, but also great Animosities among the Nobility, by reason that the King's Uncles were not consulted with, in the publick Affairs of the Kingdom; and the Arch Bishops of *Canterbury* and *York* hated each other, because the latter had got the start of the other in the King's Favour; so that when the next Parliament was assembled, they would give the King no Money, unless his Officers, that had had the Management of the Publick Revenues, were called to an Account, with which Party the King's Uncles also joyned, out of hatred to the Favourites; but what was done in this Parliament, may be better learn'd from our own Historians and Records.

According to the [ 2 ] Writs of Summons issued out on the Eighth of August, a Parliament met at *Westminster*, on the first of October; but before I come to give you an account of the Proceedings of it from the Records, I shall set down some remarkable Transactions relating to it, as they are in my Author; [ 3 ] for though the King appeared in Person at the opening of this Parliament, yet finding the Commons resolv'd to impeach the Earl of *Suffolk*, then Chancellor, of divers Crimes, his Majesty retired from it, lest he might seem to Countenance their Proceedings, and therefore trifled away his time at *Eltham*, during great part of the Sessions; whereupon, the Nobles of the Realm, and the Commons with Joint Assent, dispatched a Message to Him, That the Chancellor and Treasurer ought to be removed from their Offices, because they were not for the Advantage of Himself and Kingdom; and because also they had such Matters to treat of, concerning the Lord *Michael de la Pole*, as could not be safely treated of, whilst he remain'd in the Office of Chancellor; the King being hereat highly offended, commanded them not to make mention of any such Matter, but forthwith proceed to the Business, for which they were summoned, and hasten to a Conclusion; adding, That He would not for Them, or at their Instance remove the meanest Scullion-Boy in his Kitchen. But that which most of all anger'd them against the Chancellor was, That he, in the Name of the King, had desired of the Commons Four Fifteenths, to be paid in one Year, and as many Tenths from the Clergy; alledging, That the King was so much in Debt, that He could not otherwise be freed from them, and other Burthens lying upon Him, as well upon the Account of War, as of his Household, and other Charges; but they, by joint Assent of Lords and Commons, returned this Answer to the King, That they neither could, nor by any means would proceed in any Business of Parliament, or dispatch so much as the least Article, till the King should come and shew himself in Person amongst them, and remove the said *Michael de la Pole* from his Office; upon which the King sent this Answer, That they should order Forty Knights of the most substantial and wisest of the Commons to come unto Him, and declare the Opinions of all the rest. But then were they more afraid, every Man for his own Safety; for a secret Rumour had privately come to their Ears, That the Death of these Forty was designed by Treachery; for it was said (and it appeared afterwards so unto them) that as these were going to speak with the King, a Multitude of Armed Men should set upon, and Murther them: Or else that being invited to a Feast, some Armed Ruffians should rush in upon

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[ 1 ] Vol. III. Cap. 17.

[ 2 ] Rot. Claus. 10. Rich. 2. M. 42. dorf. A Parliament summoned, with an Account of the Proceedings in it. [ 3 ] H. K. Col. 2681.

The King not coming to the Parliament, receives a sharp Message from them.

He returns them as high an Answer.

The Chancellor demands a great Tax on the King's behalf, which they refuse to grant, till He should appear there in Person.

The K. sends for 40 of the Commons, who are afraid to go to Him, for fear of being Murthered.

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1386.

The Parlia-  
ment agree to  
send a Duke  
and Bishop to  
the King with  
a very bold  
Message.

[1] *Id. ib.*  
The Message  
it self.

N. B.

The King's  
Answer,  
threatning to  
call in the  
French King.

upon them, and kill them ; or that they should be murdered in an Instant in their Lodgings in *London* : But *Richard de Exton*, Mayor of the City, refusing to consent to so great a piece of Villany, it was deferred, and this cursed Contrivance by degrees brought to light ; when the whole Parliament, by common Consent, deputed the Lord *Thomas of Woodstock*, Duke of *Glocester*, and *Thomas de Arundel*, Bishop of *Ely*, to go to the King still at *Eltham* ; and that they should, on the behalf of the *Lords* and *Commons* in Parliament, humbly salute Him, and deliver their joint Desires to Him, under this, or such like Form of Words :

' Sir, [1] the Prelates, Lords and Commons, in Parliament assembled, with most humble Submission recommend themselves to Your most Excellent [*Here is a Chasme in the Author, but the Word is,*] Your Royal Dignity, wishing You Successful in the Course of Honour, and Invincible against the Power of Your Enemies ; together with the most firm Band of Peace and hearty Love towards Your Subjects, as well for the increase of Your own Interest and Advantage, in respect of GOD, and the Salvation of Your Soul, as for the unspeakable Comfort of all the People You Govern, on whose Behalf we are to intimate these Things unto You :

' That we have it settled and confirmed by antient Constitution, from a laudable and approved Custom, which none can Gain-say, That the King ought to assemble the Lords, Nobles, and Commons of the Kingdom, once a Year, unto his Parliament, as the highest Court of the Realm, in which all Equity ought to shine bright without any Spot, clear as the Sun, and wherein as well Poor as Rich may find a never-failing Shelter for their Refreshment, by restoring Tranquility and Peace, and removing all kind of Injuries, where all publick Grievances, or Errors, are to be redress'd, and wherein with the most prudent Council, the State and good Government of the Kingdom is to be treated of ; and considering that the King and Nation's Foes at home, and their Enemies abroad, may be discovered, and repulsed, by such means as most conveniently and honourably may be done ; and also with wholsome Deliberation therein to foresee and order, how the necessary Burthens of the King and Kingdom may with most ease (the publick Wants consider'd) be supplied : They conceive also, That since they are to support all publick Charges incumbent, they should have the Supervisal how, and by whom their Goods and Fortunes are to be expended : They say moreover, that this is their Priviledge by antient Constitution, *That if the King will fully estrange Himself from his Parliament (no Infirmary or necessary Cause disabling Him) but obstinately by his ungovernable Will, shall withdraw Himself, and be absent from them for the space of Forty Days, not regarding the Vexation of his People, nor their grievous Expences ; That then from that time it shall be lawful for all, and every of them, without any Damage from the King to go home, and return into their own Countries, And now, You for a longer time have absented Your self, and for what Cause they know not, have refused to come among them. To which the King answered to this effect.*

*Now do We plainly discover, that our People and the Commons intend to Resist, and are endeavouring to make Insurrections against Us ; and in such Case nothing seems better for Us, than to call in our Cousin the King*

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of



of France, and from Him to ask Advice and Aid, nay even to submit Our Self to Him, rather than to truckle to our own Subjects. To which they thus replied :

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The Lords  
Reply.

' Sir, this Council is not safe for You, but rather tends to Your inevitable Destruction; for the King of France is Your Capital Enemy, and the greatest Adversary to Your Kingdom; and if He should once get Footing on Your Land, would sooner endeavour to despoil You of it, to invade Your Kingdom, and to drive You from Your Throne, than in the least to lend You his assisting Hand, if at any time (which GOD forbid) You should stand in need thereof; rather therefore recall to Your Memory, how Your Noble Grand-father King Edward the Third, and in like manner Your Father, a Prince of the same Name and Renown, with great Labour and Hazards, during their whole Lives, indefatigably contended for the Conquest of that Kingdom, which by Hereditary Right appertained to them, and after them to You by Succession: You may also be pleased to call to mind, how many of the Nobles, what innumerable Troops of the Commons of England, lost their Lives in that Quarrel: Remember also, the inestimable Treasures the People of England freely parted with, for the Maintenance of that War.

' And yet, what is more to be lamented, they have in Your time sustained so many Taxes for the support of Your Wars, as that now they are reduced to such incredible Poverty, that they can neither pay their Rents for their Livings, nor assist their King, nor afford themselves even the Necessaries of Life: Thus the Royal Power is Impoverish'd, and an unhappy Condition brought upon all the great Men and Nobles of the Kingdom, who, as well as the Commons, are weakened and undone; for a King cannot be Poor that has a Rich People, nor that King be Rich, whose Subjects are Beggars: Nor do these Ills redound alone to You the King, but to all the Nobility and great Men, every one in his Rank and Degree. And all this is brought to pass by Your evil Ministers, who have ill Governed both King and Kingdom to this Day; and unless we do quickly set to our helping Hands, the Kingdom will in less time than we think of, be miserably subverted.

' But there is yet one part more of our Message remaining, on the behalf of Your People, to be imparted to You, That we have an Antient Constitution, [1] and it was not many Ages since experimented, it grieves us that we must mention it, that if the King, through any evil Council, or a weak Obstinacy or Contempt of his People, or out of a perverse and froward Wilfulness, or by any other irregular Courses, shall alienate Himself from his People, and refuse to govern by the Laws and Statutes of the Realm, according to the laudable Ordinances, and their faithful Advice; but will throw Himself headlong into wild Designs, and stubbornly exercise his own singular arbitrary Will; that from that time it shall be Lawful for his People, by their full and free Assent and Consent, to depose that King from his Throne, and in his stead to establish some other of the Royal Race upon the same: Therefore, that such a grievous and unhappy Dissention may never spring up amongst Your People; that they may never, thro' such lamentable Divisions (pleasing only to Your Enemies) be by Your evil Counsellors subverted; and that this Kingdom so honourable, and from Your Father's Days hitherto most

[1] This Passage reflects on the Deposition of Edward II.

*Anno Dom.* famous in War, may not now in Your time (thro' the Distractions  
 1386. of evil Government) be miserably laid wast; or that the Title of  
 these Miseries may never be fixed as a scandalous Mark upon Your  
 Reign; recall, we beseech You, Your Royal Mind from such foo-  
 lish and pernicious Councils; and whosoever they are that suggest  
 such Matters to You, do not only refuse to hearken to them, but  
 totally remove them from Your Presence; for in a time of Danger it  
 will be found, that they can no ways prove effectual to serve You,  
 when You shall stand most in need of them.

*Dr. Brady*  
 confuted, who  
 will not allow  
 this Speech  
 for Genuine.

I have here given you the exact Relation of this Discourse, between the King and the Duke and Bishop above-mentioned; whereby it appears, what Sentiments these great Men then had, concerning the Authority of Parliaments, in those Days. And tho' *Dr. Brady* (who hath given us a lame and partial Relation of this Transaction, upon a Supposition, that no Subjects did ever accost a Prince in that manner) will not allow this Speech to be Genuine, but to have been wholly made and invented by the Author, the better to set off his History, according to the Humour of the Writers of those Times, that abound in long and feigned Orations; yet for all this, I cannot come over to his Opinion in this point; for as to the first Objection, it signifies little, if we consider the high Quality of the Persons that brought this Message, the One being the King's Uncle, and the Other a Prelate of a noble Family, and One over whom secular Princes in those days had no coercive Power; and likewise the great Authority of the Two Houses of Parliament, who then sent them; and it is not likely, that they went to Him without any Instructions what to say: But as for his other Objection, however it may be said of other Writers, yet I am sure it cannot against this (whom we now cite) since he is very seldom guilty of making set Speeches; and I shall leave it to the Reader's Judgment, whether this Author, who was a Man at this very time, and wrote his History in the succeeding King's Reign, should presume to forge a Speech of so dangerous a Consequence, when the same Bishop who spoke it (or at least had a share in it) was then alive, and being then translated to the See of *Canterbury*, could easily have contradicted so notorious a piece of Forgery. But to return to the History.

[1.] *H. K.*  
*Col. 2683.*  
 The King is  
 pacified,  
 comes to the  
 Parliament,  
 and there  
 makes the  
 Bishop of *Ely*  
 Chancellor.  
 [2.] *91. Claus.*  
*10 Rich. 2.*  
*M. 35.*  
*16. M. 16.*  
 [3.] The  
 Earl of *Suffolk*  
 late Chancel-  
 lor, is Im-  
 peached.

[1.] By these, or such kind of Speeches, the King laying aside His Passion, was reduced to a better Temper, and being pacified, promised, that after Three days He would come to the Parliament, and with mature Advice willingly acquiesce in their Petitions. The King came as He had promised, [2.] and on the four and twentieth of *October* next following, *Thomas Arundell*, Bishop of *Ely*, was made Chancellor, in the Place of *Michael de la Pole*, Earl of *Suffolk*, and [3.] on the same day, *Gilbert* Bishop of *Hereford* was made Treasurer, instead of *John de Fordham*, Bishop of *Durham*. *John de Waltham* was also made Keeper of the Privy-Seal; and immediately after, the said *Michael de la Pole* was Impeached of several High Crimes, and Misdemeanors, by the Commons, as follows. The Title in the Record is thus.



*The Impeachment or ARTICLES Exhibited by the Commons in full Parliament, against Michael de la Pole, Earl of Suffolk, late Chancellor of England, in the Term of St. Michael, in the Tenth Year of the King, and the Judgment upon them.*

Anno Dom.

1386.

Rot. Parl.  
10 Rich. 2.  
part. N. 1.

First, That the said Earl being Chancellor, and Sworn to Act for the just profit of the King, hath Purchased of our Lord the King, Lands, Tenements and Rents to a great Value, as appears by the Record in the Rolls of the Chancery, and that against his Oath, not regarding the great Necessity of the King, and Realm; being Chancellor at the time of such Purchase made, did cause the said Lands and Tenements to be set at a much smaller Value than really they were worth by the Year, in deceit of the King.

The Articles  
of Impeach-  
ment.

To the First Article, the Earl Answer'd to this effect; That while he was Chancellor, he neither Purchased any Lands of the King, nor did He give any to him, unless when He made him an Earl, he had Four Hundred Marks *per Ann.* from the King by way of Exchange, for so much as he had by Inheritance out of the Customs of *Kingston upon Hull*, whereof some part was assigned to him by one *Tydemar of Limburgh*, and others, before he was Chancellor, and some part since that time, which exchange was for the King's Annual advantage, as also because of the Sum of One Thousand Marks paid by the Earl on that Consideration. And he further endeavour'd to prove, That the Oath he had taken, when he was made Chancellor, had another Intent than what they (the Commons) would put upon't; and yet notwithstanding that Oath, he might lawfully take, or purchase from the King.

ib. N. 7. His  
Answer to  
this Article.

But the Commons not being satisfied with this Answer, made their Reply thereunto; and this first Article being of the greatest Moment, I shall here set down in *English* all that relates to it, Translated from the same Roll.

Then [1.] the Commons, in Reply to the said Answer, shew'd the Lords the Copy of his (the Chancellors) Oath, when he took the Great Seal into his Custody, being in manner following, *Viz.*

[1.] ib. N. 8.  
Then the  
Commons Re-  
ply to it.

*You shall Swear that you will well and truly serve our Lord the King, and His People, in the Office of Chancellor, and will do Right to all Persons, both Poor, and Rich, according to the Laws and Customs of the Realm, and shall faithfully Advise the King, and Conceal His Councils; and you shall not know of, nor permit any Damage or Disfranchisement to the King, nor that the Rights of His Crown shall by any ways be destroy'd, if you can hinder it; and if you cannot hinder it, you shall then clearly and expressly make it known to the King, together with your faithful Advice and Council thereupon, and you shall always act for, and procure the Profit of the King in all things where you may reasonably do it: So Help you God, and the Holy Gospels.*

Wherefore the Commons Prayed, that this being read, and well understood, and the Circumstances of his said Answer Consider'd, to wit, that he had not denied to have receiv'd of the Gift of the King, since he was made an Earl; and being then in the Office of Chancellor,

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[1.] The Commons demand Judgment upon the Earl's Answer.

[2.] *Id. N. 13.* The Judgment given against him.

II.  
*Id. ib.*

III.  
*Id.*

cellor, divers Lands and Tenements, as is contain'd in the Impeachment; and it is openly known that he had received from the King other Lands and Tenements, that are certain and sure, to the value of Four Hundred Marks *per Annum*, in Exchange for Four Hundred Mark Yearly, which he had upon the Customs of *Kingston upon Hull*, that are casual, and not so sure, without informing the King of His Damage in that Particular. And whereas he the said Chancellor has alledged, that he received part of the said Lands and Tenements so taken in exchange, before he was Chancellor. The Commons Reply, That he was then Sworn of the King's Privy Council, and that afterwards, at his being made Chancellor, was again obliged by Oath; and that being in the said Office, he had agreed to the Exchanges by him before desired, and had received from the King the Remainder of the said Lands and Tenements in full performance of the said Exchanges; and therefore they [1.] demand Judgment of the Parliament upon his aforesaid Answer; which being thought insufficient by the Lords, the following Judgment was given, being to this effect. That since the said Earl had not alledged in his Answer, that he had observ'd his Oath, *when he Swore that he would not know of, nor suffer any Damage or Disinheritance of the King, nor that the Rights of His Crown should any ways be destroyed, if he could hinder it;* with the rest of the Clause in the said Oath, as is above recited; yet that he being the Principal Minister of the King, and knowing his Estate, and the Necessity of the Realm, had taken such Lands and Tenements as are laid in the said Impeachment, and are recited in the first Article; and tho' he hath alledged in his Answer, [2.] That the Gifts so bestowed upon him, were Confirm'd in full Parliament, yet since he had produced no such Record Enroll'd in Parliament; therefore it was adjudged, that all Mannors, Lands, Tenements, and their Appurtenances so received by him from the King, should be seized, and taken into His hands, to have and to hold them to Him, and His Heirs, as fully as ever they had been before the Gift so made of them to the said Earl, with the Issues and Meane Profits of the same, from the time of the said Grant, and which were to be Levied out of the rest of the said Earl's Lands elsewhere; yet that it was not the Intention of the King, nor of the Lords, that this Judgment so given should make him lose the Title of Earl, nor yet the Twenty Marks Yearly which he was to Receive out of the Issues and Profits of the County of *Suffolk*, by reason of the said Title.

The Second Article is, [2.] That whereas Nine Lords were Assigned by the last Parliament, to View and Examine the State of the King, and Realm, and to deliver their Advice how the same might be Improved, Amended, and put into better Order and Governance; and thereupon such Examination to be deliver'd to the King, as well by word of Mouth, as in Writing; and altho' the said late Chancellor did say in full Parliament, that the said Advice and Ordinances should be put in due Execution, yet it was not done, and that by the Default of him who was the Principal Officer, or Minister. But the Earl's Answer to this being not very Material, I omit.

*Item*, Whereas a Tax was Granted by the Commons in the last Parliament, to be Expended according to a certain Form demanded by the said Commons, and assented to by the King, and Lords, and not otherwise,



otherwise, yet the Moneys thence arising, were expended in another manner, so that the Sea was not guarded as it was order'd to have been, whence many Mischiefs have already happen'd, and more are like to ensue to the Realm, and all this by the default of the said Lord Chancellor. *This Article the Earl denied, and I do not find it was proved.* Anno Dom.  
1386.

*Item,* Whereas one *Tideman* of *Limbergh* having had Granted to him, and his Heirs a Gift of Fifty Pounds *per Annum* by the King's Grandfather, out of the Customs of *Kingsston upon Hull*, which the said *Tideman* had Forfeited to the King, so that the Payment of the said Fifty Pounds *per Annum* was discontinued for Five and Thirty Years, and upwards, yet the said Chancellor knowing the Premises, Purchased to him and his Heirs of the said *Tideman*, the said Fifty Pounds *per Annum*, and prevailed with the King to Confirm the said Purchase, whereas the King ought to have had the whole Profit. IV.  
16.

[1.] For this Purchase, the said Earl was adjudged to make Fine, and Ransom, and the said Fifty Pounds were to go to the King, and his Heirs, with the Mannor of *Fluxflete*, and Ten Marks of Rent, which were exchanged for the Fifty Pounds *per Annum* out of the Custom or Profits, with the Issues aforesaid. [1.] Rot. Parl.  
N. 14. 15.  
The Judgment against  
the Earl on  
this Article

And whereas the Master of *St. Anthony* is a Schismatick, and for that Cause the King ought to have the Revenues (being to the Value of Four Hundred Marks Yearly) which appertain to him in *England*; the said late Chancellor, who ought to advance and procure the Profit of the King, took to Farm the said Profits at Twenty Marks *per Annum*, and so got to his own Use above Three Hundred Marks; and afterwards when the true Master Nominated by the Pope, ought to have had the Possession, and Livery of the said Profits, he could not obtain the same, 'till he, and two Persons with him became bound by Recognizance in Chancery, of Three Thousand Pounds to pay Yearly to the said Chancellor, and his Son *John* One Hundred Pounds *per Annum*, for the term of their two Lives. V.

As [2.] to this, it is adjudged, that the King shall have all the Profits belonging to the said Master of *St. Anthony's* at the time of the Purchase; and that for the Recognizance so made, the said Earl shall be Awarded to Prison, and Fined and Ransomed at the Pleasure of the King. [2.] Ib. N. 16.  
The Judgment on the  
5th Article.

*Item,* That in the time of the late Chancellor, there were granted and made divers Charters, and Patents of Pardon, for Murthers, Treasons, Felonies, &c. against the Laws of the Land; and that before the commencement of this present Parliament, there was made and Sealed a Charter of certain Franchises granted to the Castle of *Dover*, in Disinheriton of the Crown, and to the Subversion of the Pleas and Courts of the King, and of His Laws. VI.

To [3.] this the Judgment was, The King Awards that those Charters be Repealed. [3.] Ib. N. 17.

*Item,* [4.] Whereas by an Ordinance made in the last Parliament, that Ten Thousand Marks should be raised for the Relief of the City of *Gaunt*, yet by the Default of the said late Chancellor, the said City of *Gaunt* was lost, and also a Thousand Marks of the said Money. VII.  
[1.] Ib. N. 14,  
15, 16.

The Sum of the Earl's Answers to the rest of these Articles, were either by denying some of them, or confessing and excusing others.

Anno Dom.

1386.

[1] The said Earl is not only turned out of his Office of Chancellor, but is also Imprisoned.

[2.] *Ad hunc An.*

According to *Walsingham*, all these Articles were fully prov'd.

[3] *Rot. Parl. Ib. N. 18.*

The Commons upon the Kings compliance with them, give the King a great Tax, which is to be deposited in the hands of certain of the Nobility.

[4] *T. W. Ib.*

Note, He was Created to that unheard of Title the 13th of *Octob.* foregoing.

The Duke of *Ireland* is to have 30000 Marks, provided he will go over into *Ireland*.

[5] *Rot. Parl. 10 Rich. 2.*

[6] The Parliament name eleven Lords, Commissioners to Regulate all Abuses.

But for all that, he had the like Judgment as before, upon every Article wherein he was Charged with deceit of the King. And for all these Offences, the said Earl was not only [1.] Discharged from his Office of Chancellor, but being Arrested, was Committed to the Custody of the Constable, and after the Parliament was up, he was sent Close Prisoner to *Windsor-Castle*; but he did not continue there long, for Reasons you will find by and by.

But [2.] *Walsingham* relates that all these Articles above-mentioned, were so fully prov'd, that the Earl could not deny them; in-  
somuch that when he stood upon his Defence, he had nothing to say for himself. Whereupon the King blushing for him, shook his head, and said, *Alas, alas, Michael, see what thou hast done?* And further, when His Majesty desired a Supply, the Commons Answer'd, *That He did not need any Talliage of His Subjects, when He might so easily furnish Himself with a Sum of Money from him who was His just Deb-*

*tor.* [3.] Yet at last, upon His Majesty's yielding to have him turn'd out of the Chancellorship, and admitting the Articles to be proved (which at first He was very unwilling to suffer) they freely Granted Him half a *Tenth*, and half a *Fifteenth*; they likewise gave Him of every Tun of Wine coming in, or going out of the Realm, Three Shillings, and Twelve Pence upon every Pound of Merchandize, except of such Staple Commodities as *Wooll*, and *Woolfells*, only provided, that it might well and duly be expended; to which purpose, it was to be deposited into the hands of certain of the Nobility appointed for that Purpose: And not long after, all, or the greatest part of it was Received by the Earl of *Arundel*, who was then going to Sea with a [4.] great Fleet, to Secure the Coasts against the *French*, and *Spaniards*. And the Parliament also, at the King's Instance, granted, That *Robert de Vere*, newly made Duke of *Ireland*, (the King's Chief Favourite) should have the Sum of Thirty Thousand Marks (which was to be received of the Heirs of Count *Charles of Blois*) wholly to his own use, provided he would be gone before next *Easter* into *Ireland*, and there make use of it, to recover the Dominions that the King had given him in that Kingdom; so passionately did both Lords and Commons desire his Absence, that they would rather want so much Treasure, than endure him here any longer, to influence the King.

Furthermore, [5.] the Parliament observing, that by the great Corruption of the King's Officers, the publick Revenue was vainly consumed, the King insufferably defrauded and abused, the common People of the Realm, by continual and grievous Burthens, miserably impoverished, the Rents and Profits of the Nobles and Great Men much impair'd, and their Poor Tenants in many Places forced to abandon their Husbandry, and leave their Farms empty and desolate; and yet that by all these things the King's Officers became unmeasurably Rich; they therefore chose [6.] Eleven Lords of the Realm, and gave them Leave and Power to Enquire into, Treat of, and Determine all Affairs, Causes, and Complaints arising since the Death of King *Edward the Third*, to that present time; as also of the King's Expences, and His Ministers, and all other Matters whatsoever, happening within that time to them Assigned; and they caused the said Lords so Chosen, to be Sworn on the *Holy Evangelists*, well and truly



truly to Regulate all Burthens, and other Affairs incumbent on the King, and Kingdom, and to do Justice to every one, according to the Grace and Understanding given them by God. The King likewise took an Oath to stand to their Ordination, and to encourage them in their Actings, and not to revoke any Article of their Power, but to Confirm, and hold good and stable whatsoever the said Counsellors should do, or order, during that time: Six of whom, with the Three Chief Officers of the King, appointed by Consent of Parliament, viz. the Chancellor, the Treasurer, and the Lord Privy-Seal, should at any time make a *Quorum*: And it was also ordained by the Act of this Parliament, That if any one should Advise the King to make any Revocation of their Power, tho' the King should not revoke it; yet the Person upon direct and manifest proof, probably Convicted only of such ill Counsel, should for the same Forfeit all his Lands, and Goods; and if he attempted it a second time, he should be Drawn, and Hang'd, as a Traytor:

And for a further Confirmation thereof, the [1.] the King issued forth His Commission under the Great Seal of *England*, Confirming the said Lords in that Power. Which Commission being now obsolete, I shall only give you the Substance of it, as it is abreviated from the Record, by *Dr. Brady*; reciting, That the King of his own Free-Will, and at the Request of the Lords, and Commons, had changed the Great Officers of the Crown above-mentioned, for the good Government of the Kingdom, the good and due Execution of the Laws, and in relief of his own Estate, and ease of his People, and had appointed Eleven Commissioners, viz. *William* Archbishop of *Canterbury*, *Alexander* Archbishop of *Tork*, *Edmond* Duke of *Tork*, and *Thomas* Duke of *Gloucester*, (the King's Uncles) *William*, Bishop of *Winchester*, *Thomas* Bishop of *Exeter*, *Nicholas* Abbot of *Waltham*, *Richard* Earl of *Arundell*, *John* Lord *Cobham*, *Richard* le *Scrope*, and *John* *Devereux*, to be His Great and Continual Council for one Year next coming, after the Date of these Letters Patents. By which He gave them Power to Survey and Examine all His Officers, Courts, Household, and the Government of the whole Kingdom; to Receive all his Revenue, as also all Subsidies, Taxes, and other Payments; to do what they would in the Kingdom, and to amend all things according to their Discretions. And these Powers, as great perhaps as any King ever Exercised, were given to any Six of them, with His Three Great Officers, willing, that if any difference in Opinion should happen between His Counsellors, and those Officers, that the Matter should be determin'd by the major part of them; Commanding and Charging all Prelates, Dukes, Earls, Barons, the Steward, Treasurer, and Comptroller of His Household, the Justices of one Bench and the other, and other his Justices whatsoever, Barons and Chamberlains of the Exchequer, Sheriffs, Escheators, Mayors, Bayliffs, and all other His Officers, Ministers, and Lieges whatsoever, that they should be Attending, Obedient, Counselling and Assisting to the said Counsellors and Officers, so often, and in what manner they should direct. Dated at *Westminster* the Nineteenth Day of *November*. Upon this Commission a Statute was made, and the whole recited in it, which you may see in the Statute-Book, 10 *Richard* II.

[1] *Reg. Parl.*  
10 *Rich.* 2.  
*Part* 1. *M.* 7.  
The King also grants them a Commission under His Great Seal, with the effect of it.

*Anno Dom.* 1386. This [1.] Parliament ended on the Twentieth of November; and the last thing entred upon the Roll before that *Memorandum*, is, That the King made open Protestation in full Parliament, with His own Mouth, That for any thing which was done in that Parliament, He would not that any prejudice should come to Him, or His Crown, but that the Prerogative and Liberties of His Crown should be safe, and preserved.

[1] Rot. Parl. 10. Ric. 2. N. 35, 36. The Parliament is dissolved, at the end of which the King makes a Protestation.

[2] T. W. The King notwithstanding restores the Earl of Suffolk to Favour.

[3] The Favourites contrive to have the Duke of Gloucester, and others, Murdered, at an Entertainment, which is defeated, and how?

What was the Reason of the King's making this Protestation, you will find under the next Year, when He not only recall'd the above-mention'd Commission; but also Revoked and Abrogated all the Proceedings of this Parliament; for not being satisfied with what they had done against the Earl of Suffolk, and Duke of Ireland. [2.] He was so far from parting with them, that He receiv'd them into much greater Favour and Confidence than ever before; and at Christmas following, admitted the Earl of Suffolk to sit down with Him at the Table. And *Walsingham* further confirms, what *Knyghton* also relates, viz. That these Favourites had now so great power with Him, as that during the Session of this Parliament, they framed a Design (to which the King gave His Consent) of [3.] Inviting the Duke of Gloucester, and divers Leading Men in the House of Commons, to Supper at the House of a certain Citizen of London, where they were all to have been Murder'd; by whose Deaths they hoped not only to be reveng'd upon their Enemies, but to set the King free from all Restraints for the future. But this Conspiracy fail'd of its intended effect, by reason that the Duke of Gloucester having timely notice of it, warned the rest not to accept of the Invitation, but rather to be content with a moderate Supper at Home, than to pay so dear for their Entertainment Abroad. The same Author further Relates, that Sir Nicholas Bramble late Mayor of London, was Privy and Consenting to this wicked Plot, but that by the Industry and Courage of Sir Richard Exton the Mayor for the present Year, it was happily defeated; who being asked by the King to give his consent, or at least connivance to this Action, said, *He would never have his Hands imbrued in Innocent Blood.* So that the Persons against whom the Design was laid, grew thereby the more Popular, and Beloved, as the others grew more and more odious to the People.

[4.] Vol. 3. Cap. 27.

But since [4.] *Froisart* (I know not from what Information) has made a quite different Relation of the Means by which this Extraordinary Commission was obtained, and the Consequences of it; I shall here give an Abstract of those Transactions, without passing my word for the truth of them, since I look upon them as very improbable.

He says that the People being highly discontented at the Insolent Carriage of the Duke of Ireland, who Govern'd the King at his pleasure, as also upon the Rumour of a Great Tax of a Noble a Head to be paid throughout England; which Rumour was suppos'd to have been raised by the King's Uncles, on purpose to render the People more dissatisfied with the Archbishop of York, the Duke of Ireland, and the rest of the King's Officers and Ministers at that time; upon this the Citizens of London, sent some of their Body to the Duke of Gloucester, desiring him to take upon him the Government of the Kingdom, and to bring those to an Account, who had Govern'd it hitherto



hitherto so little to its Advantage, for that the poor *Commons* thought it very hard to have Taxes upon Taxes, and yet none be able to tell what became of them; to this the Duke answer'd, That he believed they had sufficient Cause of Complaint; but as for himself, tho' he was the King's Uncle, yet he could do nothing alone, since his Majesty did put such a Confidence in those He now imploy'd, that it was in vain for them to interpose; however, he advis'd them, that if they would obtain their Desire, their best way was to engage the rest of the Cities and great Towns of *England* in the same Design, and then instructed them further what they should say, when they came before the King.

Anno Dom.

1386.

[1.] *Ibid.*

The [1] *Londoners* gave the Duke Thanks for his good Advice, and he had them be sure to attend the King at *Windsor*, at *St. George's* Feast next ensuing, where they should find his Brother of *Tork* and himself present, and ready to assist them: Then, the next Day after the Feast, there came to *Windsor* about Sixty Deputies from *London*, and as many from *Tork*, and other Towns in Proportion: The King would at first have gone away without seeing them, or giving them any Answer; but being better advis'd by his Uncles, and the Earl of *Salisbury*, He received them in the Lower Hall of the Palace, where they address'd themselves to Him, to the same effect as they had been before advis'd by the Duke, desiring a speedy Assembly of the Estates of the Kingdom, to call those to Account that had misbehaved themselves in their Employments, and put other more worthy Persons into their Rooms, according to the Advice of his Uncles, and the Prelates, Earls and Barons of the Kingdom. When the King heard this, He told them in few Words, *That their Requests were long, and therefore He had not time to return an Answer to them, but would defer it till the next Parliament, which should be held at Westminster at Michaelmas following; and that if they then brought Him their Requests, He would communicate them to his Council, and what was reasonable to be done, should be granted; and what was not so, He would reject; but that his Subjects should never be his Masters; and that He never perceived, that either Himself, or those that Govern'd under Him, ever intended other than what was Right and Justice.*

At this Word *Justice*, Seven of the most zealous of them cried out at once, that with Submission to his Majesty, *Justice* was at a very low Ebb in his Kingdom; and that He did not, neither could know the Truth, since those that advis'd Him, did all they could to hide it from Him, for their private Profit and Interest; but as for their own Parts, they did not desire to stay so long as the Day. He had assigned for their bringing their Complaints in Parliament, since a more speedy Remedy might be presently applied, by calling those to an Account who had mismanaged his Revenues, and to know how they had dispos'd of those immense Sums, that had been rais'd by Taxes thro' the Realm, for Nine Years last past; and if they could give a fair Account, they (the Citizens) would be very well pleas'd; but those that could not shew any such Discharge, should stand to the Judgment of his Uncles, and the other Lords of the Realm.

Erbis. 16.

The King was much surpriz'd at this bold Demand, and looked upon his Uncles, to hear what they would say: Then the Duke of *Glocester* told Him, That he saw nothing but what was reasonable in this Demand of the Commonalty of his Realm; and turning to his Brother the Duke of *Tork*, asked him what was his Opinion of it, who

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answer'd, that he thought so too; and then all the Prelates and Barons there present, being asked their Sentiments, they agreed with those Two Princes: Whereupon, the time for this Great Council was appointed to be within Eight Days after the Feast of St. George, at *Westminster*, where all the Prelates and Lords there present promised to appear.

[1.] *Id. ib.*

In [1] this Parliament, which continued above a Month, *Froisart* says, Sir *Simon Burley* was first called to an Account for the Sum of Fifty Thousand *Francs*, and it was demanded how he had disposed of them? He excused himself by the Arch-Bishop of *Tork*, who said, that he had not dispos'd thereof it otherwise than by the Orders of the King's Chamberlains, Mr. *Robert Tresilian*, Mr. *Robert Beauchamp*, and others; and that, when he was like to go to Prison because he could not shew any Discharge for this Money, he would have fled into *Germany* to avoid the Storm, had he not been dissuaded by the Duke of *Ireland*, who promised to lay down that Sum for him, out of the Ransom of *John* of *Bretagne*, Son to Count *Charles* of *Blois*, and so he stay'd his Tryal; but not being able to give such an Account of this Money, as was satisfactory to the Parliament, who charged him with no less than Twenty-five Thousand *Francs*, he was committed close Prisoner to the Tower, being a Person much hated of the King's Uncles, and also of the whole Commonality of *England*, for his great Pride and Insolence.

Then this Author further relates, that King *Richard*, to secure the Duke of *Ireland* from being question'd by this Parliament, left *London*, and went down with him to *Bristol*, and thither the Queen and all the Court followed; and that in the mean while, the King's Council held on the Parliament at *London*, and proceeded with that Severity, that they condemned Sir *Simon Burley* to be Beheaded, whom this Author, who knew him for a long time, very much bewails, as being a well bred Knight, and of a very great Sense; and upon this News being brought to the King, who was still at *Bristol*, He was extremely grieved at it, and vow'd to revenge his Death.

Then he proceeds to relate, how the Arch Bishop of *Tork* was turn'd out of his Office of Treasurer by this Parliament, who also appointed a new Privy-Council, and endeavour'd a thorough Reformation in the Government, which the King, in Favour to the Duke of *Ireland*, did all He could to hinder and oppose.

ib Cap. 28. And therefore to this end, whilst He continued at *Bristol*, He gave the Duke secret Orders to raise an Army in *Wales*, and to march with it under the King's own Banners towards *London*, to reduce that City and his Uncles, who were supported by it, unto his Obedience; whereupon, the Duke advanced with an Army of about Fifteen Thousand raw Men, as far as *Oxford*, against whom the Duke of *Glocester* marched from *London*, with above Twenty Thousand Men towards *Oxford*, beyond which City, he pass'd the *Isis*, and soon after encountered the Duke of *Ireland*, and put him to flight.

This is the Sum of this Author's Relation, who was certainly mistaken in his Information, concerning these Transactions; for in the first place it is very improbable, that there was ever any such Addreses from the Cities and great Towns of *England*, to the King, to call his Officers to an Account; for had it been so, certainly such



a remarkable Passage could not have been passed over in Silence by our *Anno Dom.* Historians, and yet none of them do take the least notice of any such *1336.* thing; nor could a Parliament be then Summoned within so short a time as Eight Days; nor was this, or the ensuing Parliament, held at the time this Author assigns; neither was Sir *Simon Burley* sentenced to be Beheaded till the next Parliament; and then it was not because he could not render an Account of the Money he had received, but for other Matters, as you will find anon, from the Record of the Proceedings against him in that Parliament; nor was the Arch-Bishop of *Tork* turn'd out from being Treasurer in this Parliament, but the Earl of *Suffolk*; neither did the King leave *London* to go down to *Bristol*, with the Duke of *Ireland*, to raise Forces against his Uncles, during the sitting of this Parliament, as this Author imagines; for tho' the King at first refused to come to it, when the Earl of *Suffolk* began to be question'd, yet He never went further than *Eltham*, as hath been already related; and when the Duke of *Ireland*, a little before the next Parliament, went into *Wales*, and raised Forces, the King did not go with him, but stay'd all the while in Town, till the Business was over; and then was fain to consent to call a Parliament, as you will find hereafter. In short, this Author so confounds the Transactions of these Two Parliaments, that none can distinguish them; for he makes them to have been but one, contrary to all the Accounts of all our Historians, and the Records of Parliament themselves. I have taken the more Notice of this, because several of the *French* Writers, who take upon them to give an Account of the Affairs of *England*, have, by blindly following this Author, been led into many gross Mistakes; as in particular, the *Pere d'Orleans*, in his late History, of the Revolutions of *England*, of whose Performances, since I have said so much in the Preface to this Volume, I shall mention no more of him here.

As to foreign Affairs, I find this very considerable Action, that the King of *France*, being encourag'd by these Domestick Divisions, was still in *Flanders*, accompanied with a great number of his Nobility, having lain all this Summer at *Sluice*, ready to invade *England*, if GOD had not prevented it, by keeping the Wind contrary, from the middle of *August* to the middle of *November*, and the Wind chopping about, so far flatter'd the *French* Fleet, that they set out to Sea; but by that time they were Seven or Eight Leagues off from the Shore, it not only turn'd about into its former Quarter, but blew with such Violence, that it drove them back again upon the Coast of *Flanders*, and destroy'd several of their Ships in the Haven of *Sluice*, upon which Accident, the King of *France* having called a Council, it was therein resolved, That it now being late in the Year, this Expedition should be deferred till the following Spring; but before that time, *England* being put into a better posture of Defence, this Design came to nothing: Yet thus much is certain, That this Kingdom never had a greater Deliverance; for the Flower of the *English* Forces were now Abroad with the Duke of *Lancaster* in *Spain*, besides the great Discontents and Divisions at Home; and *Froisart* relates, That the World never saw a greater Fleet together; for it consisted of near Thirteen Hundred Sail of Vessels of all sorts; and as for the Land-Forces, *Walsingham* adds, that besides, above Forty Dukes and Earls there lay ready to go on Board,

*Mezeray.*  
The King of France continues in Flanders, ready to invade England with a vast Fleet and Army; but is hinder'd by a contrary wind

Whereupon, the Expedition is put off till the next Spring.

The vast Preparations of the French for this Invasion.



*Anno Dom.* 1386. Three Thousand Men at Arms, or Horsemen, besides so vast a Number of other Soldiers, that it seems incredible, and the *French* themselves own them to be no less than Sixty Thousand Fighting Men. But the fear of this Storm being now over, it was thought fit to do somewhat against the *French*, by way of Revenge.

*Anno Dom.* 1387. And in order to it, about the beginning of *March* this Year, *Richard* Earl of *Arundel*, now Admiral, having got ready a powerful Fleet, went on Board, accompanied with *Thomas Mowbray* Earl of *Nottingham*, and about the middle of that Month (contrary to expectation) set out to Sea; for certain Traytors had given the Enemy Notice, that they could not be ready before *May*, which proved much for the Advantage of the *English*, for by this means the Enemy growing more secure, the Admiral about the latter end of *March*, discover'd a great many Ships of *Flemmings*, *French* and *Spaniards* laden with Wine, and well guarded by Men of War; upon his meeting with them they had a sharp Engagement, wherein he took several of the latter, and a great number of Prisoners, besides those that were killed; the rest fled, and he persued them for two whole Days, and took in all an Hundred and more of their Ships, reckoning great and small, wherein were Nineteen Thousand Tuns of Wine; and *Knyghton* Relates, that the Admiral of *Flanders* was also taken, with divers other Persons of Note, all which tended very much to the Honour as well as Advantage of these [1.] Noblemen. And not long after, the aforesaid

[1.] The same Earls go out again, and relieve *Brest*, and return home with great Honour and Applause, except from the King's Favourites. Earl having Recruited the Fleet, Sailed out again to the Coast of *Bretagne*, where he Landed near *Brest*, and not only Relieved that Place, but assaulting two Forts, which had been lately built for the defence of that Coast, he took the one, and put a Garison into it, and burnt and destroy'd the Materials that were got ready for the finishing the other, and then they return'd Home, with the general Applause of all Men, except the Duke of *Ireland*, and Earl of *Sussex*, and some Courtiers; who not being given to Martial Actions themselves, envied the Worthy Atchievements of others. Yet it seems, these had so much influence over the King, that tho' the Earl of *Nottingham* was Lord Marshal, and had been brought up with Him, yet upon his Return from this Expedition, He was so far from Congratulating his good Success, or giving him thanks for what he had done, that He [2.] receiv'd him with great Coldness and Indifference, and scarce took any notice of him. This deserves our Consideration, because it shews us by what means this Prince, from being highly respected, and beloved, came within a short time after to be generally hated, and despised by the Nobility, and People; for these Minions had so corrupted His Natural Temper by Luxury, and Effeminateness, that not only Military Affairs, but even those many and Princely Exercises of Hawking, and Hunting, were thought too rough and tiresome for their tender Bodies.

[2.] The King receives the Earl of *Nottingham* very coldly. And [3.] some time after, lest those Noblemen should gain too much honour by going out again, the King and His Council resolv'd to send *Henry* Lord *Piercy* (for the quickness and speed in his War-like Undertakings call'd *Hot-spur*) to Sea in their stead; who tho' he was but very poorly provided of Men, and besides, not much Countenanc'd by the Court, which envied the great Reputation he had

*Walsingham*,  
*Ad hunc An.*  
The Earls of  
*Arundel* and  
*Nottingham*,  
go out with a  
great Fleet,  
fall upon a  
Navy of Fo-  
reigners,  
where they  
take a great  
number of  
Ships, and Pri-  
soners, besides  
a vast quanti-  
ty of Wines.

[1.] The same  
Earls go out  
again, and re-  
lieve *Brest*, and  
return home  
with great  
Honour and  
Applause, ex-  
cept from the  
King's Favo-  
rites.

[2.] The K.  
receives the  
Earl of *Not-  
tingham* very  
coldly.

[3.] *Id. ib.*  
The K. sends  
the L. *Piercy*  
to Sea, to de-  
fend the Coast  
against the  
*French*, who  
behaves him-  
self gallantly.



had acquir'd at the Recovery of *Berwick*, and was afraid of the increase of it, yet he undertook the Employment, and having guarded the Seas the rest of this Year, and behaved himself very gallantly, against the *French*, (tho' our Authors do not give us the Particulars) he return'd home in Safety, very much to the disappointment of his Enemies.

[1.] Not long after, there happen'd an Action, which mightily exasperated the Nobility and People against the Duke of *Ireland*, who was now become so strangely Insolent, that presuming on his Power with the King, he was openly Divorced from his Wife *Philippa*, Grand-daughter to King *Edward* the Third, by his Daughter *Isabel*, Wife to the Lord *de Coucy*, a Lady of sufficient Beauty, and irreproachable Vertue, and in her stead, prefer'd to his Bed, one *Lancrona*, a mean *Bohemian*, who waited on the Queen, (being as some say) a *Vintner's* Daughter, or (as others) a *Joyner's*; but tho' the King took no notice of this Affront offer'd to his Cousin *German*, yet the Duke of *Gloucester*, her Uncle, highly resented it, and only waited for an Opportunity to Revenge it; which the other quickly perceiving, he was resolved to strike first. And *Easter* being now over, and the time limited by Parliament for the Duke of *Ireland's* departure elapsed, he (though so largely hired to it as aforesaid) cared not for that Voyage; wherefore to amuse the People, [2.] the King went down with him into *Wales*, pretending it was only to see him take Shipping there; but the truth of the Matter was, that being there remote from the Nobility, they might the more securely Consult how to circumvent and destroy the Duke of *Gloucester*, with the Earls of *Arundel*, *Warwick*, *Derby*, and *Nottingham*, and other Faithful Subjects of His Kingdom. There were then about the King, *Michael de la Pole*, *Sir Robert Tresilian* the Chief Justice, and several others, who being conscious of their own Evil Deserts, were afraid to be brought to Justice, as well as the said Duke of *Ireland*; and therefore Conspired with him against the Lords above-mention'd. Having thus laid their Plot, and agreed upon the manner of putting it in Execution, [3.] the King comes to *Nottingham*; and, as if the Duke of *Ireland's* Voyage had been quite forgot, brings him, and the rest of the Cabal along with Him, and thither they Summon divers Citizens of *London*, the Sheriffs of the several Counties, and all the Judges of *England*; the *Londoners*, because several of them had lately confessed themselves guilty of Treason, and been Pardon'd by the King, hop'd, in return of that Favour, that they might stand by the King, and accuse the Lords of such Crimes, as His Majesty, with His Councillors in *Wales* had contriv'd against them. Then the Sheriffs were Advised with, what Forces they could Raise for the King's Service against the Barons; and were also Commanded That they should not permit any to be Return'd as Knights of the Shire, or Burgesses for the next Parliament, but such as the King and His Council should Direct, or Nominate. To which, the Sheriffs Reply'd, That the Commons generally Favour'd the said Lords, so that it was not in their Power to Raise an Army in this Case; and as for Parliament-Men, the People would hold their Antient Customs, which require, that they be freely Chosen by the Commons, nor could the same be hinder'd.

Anno Domini

1387.

[1.] *Id. ib.* The Duke of *Ireland* is Divorced from his Lady, and Marries a *Bohemian*, of mean Birth; which is highly resented by the Duke of *Gloucester*.

[2.] The King carries the Duke of *Ireland* with him into *Wales*, as if he meant to accompany him towards *Ireland*, but indeed to consult about the Destruction of the Duke of *Gloucester*, and other Noblemen of his Party.

[3.] The King at *Nottingham* hold a Council of the Judges, Sheriffs, and divers other of his own Party, with whom, the King tampers to pack a New Parliament, but receives no great Encouragement in that Project.

Anno Dom.

1387.

The Judges shew themselves more compliant to the King's designs.

H. K. Col. 2693.

The King proposes several Questions to the Judges concerning the late Provisions enacted in the last Parliament.

[1] *Id.* Col. 2654.

Several of 'em answer as the King would have them, out of Fear.

\* It is *Ratis* in the Latin, being miswritten for *Creis*.

These Answers were not very agreeable to the Court-designs : But the Judges were more Compliant ; for not only *Tresilian*, the Chief Justice, had lately indicted two Thousand Persons at *Coventry*, on pretence of Treason, and he, and one *John Blake*, an Apprentice, or Barrister at Law, (whom the Chief Justices had lately introduced into Court, to second his Designs) perused and approved, under their Seals, the said Indictment against the Lords ; but also the better to Colour their Proceedings with a Form of Law, several Questions were propounded to the Judges, touching the late *Provisions*, or Act of Parliament, giving the Eleven Lords Power to inspect and punish Mischances of the King's Ministers, as aforesaid : To the end (as a modern Author well observes) that what the Duke of Ireland, and the rest of that Faction, thought fit, might the better pass for Law from the Mouths of the Judges. The Questions being so framed and proposed, it was easier to understand what the King would have to be Law, than what in Truth was so ; for it seems they went against their Consciences, in that several of them, and particularly [ 1 ] Sir Robert Belknap, Chief Justice of the *Common-Pleas*, did at first, (though earnestly press'd to Sign the Resolutions) refuse so to do, till the Duke of Ireland and *de la Pole* forced him to it, by threatening to kill him, if he denied it ; whereupon, having put to his Seal, he burst forth into these Words before them : Now want I nothing but a \* hurdle and a Halter to bring me to that Death I deserve : If I had not done this, I should have been killed by your Hands ; and now I have gratified the King's Pleasure, and Yours in doing it : I have well deserved to dye, for betraying the Nobles of the Kingdom ; which last Words were like to have proved fatally Prophetic ; for not long after, in the next Parliament, he was indeed condemned to Dye, tho' he was not Executed for the same ; for some Authors say, That all the Judges of *England* (except Sir William Shipwith, absent by reason of Sickness) joyned the Answers to these Questions ; which seems probable enough, because they were afterwards all Questioned, and punished for the same, yet in the Record there are but Five named ; possibly, the Others might consent, tho' these only set their Seals to it.

[2] *Id.* *ib.*

The [ 2 ] Questions so proposed to the Judges, and their Answers, were as follow :

The Preface to them is thus :

The Preface to the Questions proposed to the Judges.

' Be it remembred, that on the Five and Twentieth Day of *August*, in the Eleventh Year of the Reign of King *Richard the Second*, at the Castle of *Nottingham*, before our said Lord the King, *Robert Tresilian*, Chief-Justice of *England*, and *Robert Belknap*, Chief-Justice of the *Common-Bench* of our said Lord the King ; *John Holt*, *Roger Fulthorp*, and *William de Burgh*, Knights, Justices, and Associates of the said *Robert Belknap*, and *John de Lotton*, the King's Serjeant at Law, in the Presence of the Lords, and other Witnesses under-written, were personally required, by our said Lord the King, on the Faith and Allegiance wherein to Him they are bound, to answer truly unto certain Questions here-under Specified ; and to them then and there duly recited, and that they should thereupon declare the Law according to their Discretions.



Imprimis, *It was demanded of them, Whether that late Statute or Ordinance and Commission, made in the late Parliament held at Westminster, be not derogatory to the Royalty, and Prerogative of our said Lord the King?* Anno Dom. 1387.

To which they unanimously answer'd, That the same are derogatory thereunto, especially because they were made against his Will. The Questions themselves.

Item, *It was Query'd of them, How those are to be punished, who procured that Statute and Commission?* II.

To which they unanimously answer'd, That they were to be punished with Death, except the King would pardon them.

Item, *It was Query'd, How those are to be punished, who moved the King to consent to the making of the said Statute?* III.

Whereunto they answer'd with one accord, That they ought to lose their Lives, unless his Majesty would pardon them.

Item, *It was asked them, What Punishment they deserved, who compelled, streightned, or necessitated the King to consent to the making of the said Statute and Commission?* IV.

To which they all Answered, That they ought to suffer as Traytors.

Item, *It was demanded of them, How those are to be Punished, who hinder'd the King from exercising those things which appertain to his Royalty and Prerogative?* V.

To which Question they unanimously answer'd, That they are to be punished as Traytors.

Item, *It was asked of them, Whether, after in a Parliament assembled, the Affairs of the Kingdom, and the Cause of calling that Parliament, are by the King's Command declared, and certain Articles limited by the King, upon which the Lords and Commons in that Parliament ought to proceed, if yet the said Lords and Commons will proceed altogether upon other Articles and Affairs, and not at all upon those limited and proposed to them by the King, until the King shall have first answer'd them upon the Articles and Matters so by them started and expressed, although the King's Command be to the contrary; Whether in such case the King ought not to have the Governance of the Parliament, and effectually over-rule them, so as that they ought to proceed first on Matters proposed by the King; or whether on the contrary, the Lords and Commons ought first to have the King's Answer upon their Proposals, before they proceed further?* VI. Id. Col. 2693.

To which Question they Answer'd unanimously, That the King in that behalf has the Governance, and may appoint what shall be first handled, and so gradually what next in all Matters to be treated of in Parliament, even to the end of the Parliament; and if any act contrary to the King's Pleasure made known therein, they are to be punished as Traytors.

Item, *It was demanded, Whether the King, whenever He pleases, can dissolve the Parliament, and command the Lords and Commons to depart from thence, or not?* VII.

To which they unanimously Answer'd, That He can; and if any one shall then proceed in Parliament against the King's Will, he is to be punished as a Traytor.

Item, *It was demanded, Since the King, can, whenever He pleases, remove any of his Judges and Officers, and justify or punish them for their Offences; whether the Lords and Commons can, without the Will of the King,* VIII.

Anno Dom. 1387. *Impeach in Parliament any of the said Judges or Officers, for any of their Offences ?*

To which they unanimously answer'd, They cannot ; and if any one should do so, he is to be punished as a *Traytor*.

IX. Item, *It was demanded, How he is to be punished, who moved in Parliament, that the Statute should be sent for, whereby Edward the Second (the King's Great Grandfather) was proceeded against, and deposed in Parliament ; since by means of sending for, and perusing which Statute, the said late Ordinance and Commission were devised and brought forth in Parliament ?*

To this they answer'd, That as well he that so moved, as he who by pretence of that *Motion*, carried the said *Statute* to the Parliament, are *Traytors*, and as such to be punished with Death.

X. Item, *It was demanded of them, Whether the Judgment given in the last Parliament held at Westminster, against Michael de la Pole, Earl of Suffolk, was Erroneous and Revokable, or not ?*

To which Question they unanimously answer'd, That if that Judgment were now to be given, they would not give it ; because it seems to them, that the said Judgment is *Revokable*, as being *Erroneous* in every part of it.

[1] H. Col. 2696.

In [1] Testimony of all which, the Judges and Serjeants aforesaid, to these Presents have put their Seals, in the Presence of the Reverend Lords, *Alexander Arch-Bishop of York, Robert Arch-Bishop of Dublin, John Bishop of Durham, Thomas Bishop of Chichester, and John Bishop of Banger ; Robert Duke of Ireland, Michael Earl of Suffolk ; John Rypon, Clerk ; and John Blake, Esquire.* Given the Place, Day, Month, and Year aforesaid.

[2] T. W. Ib.

But [2] though they had thus got the Judges on their side, and by that means had got a Colour of Law for what they did, yet the greatest Difficulty remained still behind, which was how to Arm themselves with power sufficient for the Execution ; in order to which, they privately sent abroad to Levy Men, but found them to come in but very slowly, because the Lords were generally Beloved, and these Favourites of the King as much Hated ; but however, they were resolved to push the Matter as far as it would go ; and to this end, either to raise Forces, or else the better to keep the King from being reconciled to his Uncle the Duke of Gloucester, and the rest of the Lords of his Party, they

The Favourites carry the King into the Northern Countries to raise Men, but find themselves much Disappointed, in the Numbers they expected.

[3] H. K. Col. 2697.

[3] carried Him about, as it were on Progress, thro' divers Counties of the North-parts of *England*, during the rest of this Summer, and the Autumn following, and that with such Celerity, that (as *Knighton* observes) no King of *England* ever so quickly compassed the Borders of his Kingdom, as King *Richard* then did ; but finding themselves unable to bring their Designs to effect in the Country, by reason of the general Opposition that was made against them, by the Nobility

The King returns to London, and hopes there to compass his Designs, by means of the Lord-Mayor.

and Gentry in those Parts, they resolved once more to try the Affections of the City of *London* ; where they made the King believe, that He would find a very strong Party to support his Interest ; and at first, I confess He had some reason to think so ; for coming to Town on the Tenth of *November*, accompanied by *Alexander, Arch-Bishop of York, the Duke of Ireland, the Earl of Suffolk, and Sir Nicholas Brambre*, with some more of their Faction, He was very honourably received by the Mayor and Citizens, who went out to meet Him with a great Multitude of Horsemen richly apparell'd, and Conducted Him and his



His Queen to St. Paul's Church, and from thence to His Palace at *Westminster*: But He did not continue long there, for the day following, the King and His Favourites having Intelligence that the [1.] Duke of Gloucester, and the Earls of *Arundel*, and *Warwick*, were marching towards *London*, with a great Force from *Haringay-Park*, near *Highgate*, it put them into such a consternation, that they immediately perswaded Him not to trust to the uncertain Fidelity of the *Londoners*, who would fail Him, if they were put to the Trial.

And [2.] here I shall give you an account of the late motions of the Duke of Gloucester, and the rest of the Lords of his Party, who having some time before discover'd the Designs of the Court against them, did all they could, first to vindicate, and then to defend themselves from their Artifices. For which end, the Duke, to take off all the evil Impressions that had been made against him to the King, a little before his coming to *London*, went voluntarily to the Bishop of that City, and several Noblemen of the Realm, and there made Oath, *\*That he had never so much as imagined any thing to the prejudice of the King, but had always studied and performed to his Power, whatever tended to the King's Honour and Advantage, and what also was pleasing to Him, except only that he could not respect, or look kindly upon the Duke of Ireland, whom the King immoderately loved, and who had dishonour'd one that was not only a near Relation of the Duke's, but also of the King's, which it was fit should be reveng'd.*

With [3.] the Contents of which Oath, the Bishop presently acquainted the King, and at first He seem'd inclinable to Credit the same; but when *Michael de la Pole* began to incense Him against the Duke, the Bishop smartly fell upon him, and said, *Sir, it does not become you to talk, but to be silent; you, who stand Condemn'd in Parliament, and are now alive only through the King's Grace and Favour:* which words so provok'd the King, that He immediately Commanded the Bishop out of His Presence, bidding him be gone home to his Church; who, at his Return, inform'd the Duke what had pass'd, and how much the King was influenc'd by those Wicked Councillors; so that it seem'd high time for him to provide for his own Safety, and to obviate that Destruction which was prepared for him. Whereupon the Duke seeing no hopes of a Reconciliation, through the Malice of the Favourites that had now the King so absolutely in their Possession, immediately sent for the Earls of *Arundel*, *Warwick*, and *Derby*, Eldest Son to the Duke of *Lancaster*, who all advising together, [4.] resolv'd to Raise an Army, and to stand upon their Guard, and so Treat with the King concerning the Premises, and especially about that immoderate Favour which He shew'd to them that were *Traytors both to Him, and the Publick*, besides the eminent hazard of the Kingdom that arose therefrom. But the King endeavour'd to have surpriz'd them singly, before they had united their Forces, but failing therein, the [5.] Confederate Lords with all the Souldiers they could muster up, march'd towards *London*, to *Bishops-wood*, *Waltham*, and *Hackney*, and at last joining together, made at their Rendezvous above Forty Thousand strong, at *Haringay-Park* above-mention'd. And it seems the King, and His Councillors, had already foreseen what was like to happen, and therefore made hast up to *London*, to hinder them from possessing themselves of the City, as otherwise they designed to have done.

Anno Dom.  
1387.

[1.] The D. of Gloucester, and other Noblemen of that Party march up to *Haringay*, and put the Court into a great consternation.

[2] R. W. The motions of the Duke of Gloucester, and those of his Party, to defend themselves from the designs of their Enemies  
\* The Duke takes an Oath before the Bishop of *London*.

[3] Id. ib. The Bishop acquaints the King with the Contents of that Oath, and vindicates the Duke from *Michael de la Pole's* Invectives, at which the K. is very much incens'd.

[4] The Confederate Lords raise Forces, and stand upon their Guard.

[5] H. K. ib. They March up with them to *Haringay-Park*: The K. made haste to *London*, to prevent their possessing themselves of the City.

Anno Dom.

1387.

[1.] T. W.  
The suddain  
Arrival of the  
Confederate  
Lords, hinders  
the King from  
going into  
France.

But this Arrival of the Confederate Lords broke all the Measures that were taken by the King, and His Favourites, and hindered Him from his Journey to *Canterbury*, under Pretence of paying His Devotions at the Shrine of [1.] *Thomas Becket*, but (as *Walsingham* relates) was from thence to have passed into *France*, and to deliver up *Calais*, and several other Important Places to the *French King*; which by the Fatal Council of His pernicious Flatterers, He was to Sell to that Prince, on Condition he would assist Him to subdue His Rebellious Nobility. But I say, the News of the Lords being in Arms, diverted that Voyage, and put the King into so great a confusion, that He knew not what Course to take, some of those about Him were for cajoling the Lords with fair Promises, others were for Raising the *Londoners*, and what other Forces could be procured, and immediately Fighting them; of which Opinion especially was the Archbishop of *Tork*; but this the more Cautious and Prudent of them disapprov'd, alledging the Dishonour and Damage which would accrue to the King if worsted, as He was likely to be.

[2.] *Id ib.*  
The blunt  
Advice of a  
certain crazed  
Knight.

[2] Whilst these Men could not agree what course to take, a Madman blunted out an Expression, which if duly considered, might have done the King more Service than all their wise Debates; he was a certain Knight call'd *Sir Hugh de Lynne*, who had been bred in the Wars, but having by some accident lost his Understanding, as well as his Estate, was maintain'd by the Charity of several of the Nobles and Retainers to the Court; the King meeting him during these Consultations, and being willing to divert himself by hearing His rambling Discourse, ask'd him jocularly, *What He should do with the Lords that were Assembled together in the before mention'd Park?* To which *Sir Hugh* answer'd very gravely, *Let us march forth, Sir, and fall upon them, and kill them every Mother's Son; which being done, by God's Eyes, you will have bravely destroy'd, the most Faithful Subjects you have in your Kingdom.*

[3.] *H. K. ib.*  
A Proclamation made in the City, that none should presume to assist the Confederate Lords with Arms, or any Provisions, which has no effect.

But notwithstanding this notable Admonition, [3] the King and his Favorites, resolv'd at present to stand upon their Defence, by the Assistance of those that they could raise in the City; but whilst the *Londoners* were in amaze expecting the Event of this Affair, the day after the arrival of the Lords near *London*, a Proclamation was made thro' the City, that none should presume under Pain of forfeiture of their Goods and loss of their Lives, to sell or furnish the Earl of *Arun-del* with any Arms, Bows, Arrows, or other Ammunition or Provisions; because he had joyn'd with the Lords and Commons against the King; but why the rest of the Lords and Duke of *Glocester*, were not also named in it, I cannot tell; unless it was because they thought the Duke and the rest of them too Popular to be particularly mention'd: But it seems this Proclamation had very little effect, for the said Duke with the Confederate Lords above mention'd, seeing there was no more hopes of Governing the Kingdom, according to the late Statutes or Provisions, were now resolv'd not to stir, untill they had receiv'd a Satisfactory Answer from the King, as to the Business for which they were Assembled.

[4.] *Id ib.*  
*Col. 2699.*  
The Confederate Lords send the A. Bishop of *Canterbury*, and other Bishops and Noblemen to intercede with the King, but without any effect.

[4.] And to this end, immediately after the issuing of the said Proclamation, they sent the Arch-Bishop of *Canterbury*, the Duke of *Tork*, the Bishops of *Winchester* and *Ely*, and divers other Lords to the King, desiring



desiring that those Seducers and Traytors to Him and the Kingdom, and who had given it so much disturbance, by raising differences and rancour between Him, and His Nobility, might be punished according to their deserts, lest the Kingdom thro' their Evil Council should sustain any prejudice either at Home, or Abroad; protesting that they themselves will in no point do or attempt any thing which should be to the detriment or dishonour of the Kingdom; but the Evil Councils of the Favourites were then so prevalent, that these reasonable Requests could not at that time be comply'd with.

Therefore [1.] when the Confederate Lords saw that the King was so far from agreeing with them, that He espoused the Cause of the Five Favourites, as if it had been his own, and that they endeavour'd to bring over the Citizens of London to their Party; who might not understand the truth of the Matter, and also to prevent the Proclamation that had been lately made against the Earl of Arundel, therefore to acquaint the Citizens with the true Cause of their thus Assembling, and the Grievances that enforced it; they sent them a Letter written by the Duke of Gloucester, and the Earls of Arundel, and Warwick, directed to the Mayor, Aldermen, Sheriffs, and Citizens; Setting forth, That they the Lords above mention'd, were, and always would be Obedient and Loyal Subjects to the King, yet that they, the Mayor, &c. should not wonder at the Cause of their Assembling in that manner, they thought good to let them know that it had been Ordain'd by the King in the last Parliament, that certain Lords thereunto Appointed and Sworn, were to have the Governance of the King's Council and Realm, for the Honour and Profit of both, during the space of one Year; which Government had been, and was then disturbed and interrupted by Alexander Archbishop of York, Robert Vere Duke of Ireland, Michael de la Pole Earl of Suffolk, Robert Tresilian that false Justice, and Nicholas Brambre a false Knight of London, every one of them being Traytors to the King, and Kingdom, who Falsly and Traiterously by their wicked Advices and Conduct of the King's Person, had carried Him into divers remote Parts, far from His Council, to the Ruin of Him, and His Realm, and falsly Counsell'd Him against their Oaths, to do divers things in disheritance and dismembring of His Crown, He being ready to lose His Heritage beyond Sea by their means, to the great Infamy and Destruction of the whole Nation; and had also wickedly made several differences betwixt the King, and the Lords of His Council, so as some of them were in great fear and danger of their Lives, as they had lately inform'd the King, by the Archbishop of Canterbury, the Duke of York, the Bishops of Winchester, and Ely, and divers other Lords; wherefore to Redress those things, and punish these Traytors according to Law, they were now Assembled; requiring and charging the Mayor and Citizens by Vertue of their Allegiance, that they should make [2.] Proclamation thro' the whole City that this was their true Intent, and no other, and that for the Honour, Profit, and Safety of the King, and all His Loyal Lieges, they would be aiding and assisting with all their Power to the said Lords, not Favouring or Aiding the said Traytors, or any of them, as they tender'd the Honour of God, the King, and Kingdom, and the safety of their City, and that they neglect not this Advice, as they would avoid the Dangers that may happen in time to come; and then warned

[1.] *Il. ib.*  
Whereupon  
the Lords en-  
deavour to  
bring over  
the Londoners  
to their Par-  
ty.

[2.] They  
charge the  
Mayor and  
Citizens to  
make Procla-  
mation of the  
Intentions of  
the Lords,  
that all should  
be assisting to  
them.

Anno Dom. them to certifie the said Lords of their Resolutions in this Matter on 1387. Friday next, which was the Fifteenth of November.

This Letter was favourably receiv'd by most of the Aldermen and Citizens, except by the Mayor, and those of his Party ; but neither the aforesaid Message, nor this Declaration could work any alteration upon the [1.] King's Mind ; for notwithstanding all these Remonstrances, those pernicious Favourites, to prevent their own Ruin, still suggested to the King, that whatever the Confederate Lords had attempted in the late Parliament, or intended to do in any other, was to supplant Him, and subject Him absolutely to their Wills and Pleasures ; and therefore they still insisted, that the only way to hinder it, was to make the *French* King His Friend (as I said before) by delivering up *Calais*, and the rest of the Places which the *English* held in those Parts, and to get over thither Himself. But when the Confederate Lords had possess'd themselves of all the Avenues about *London*, and that He found the Mayor could not raise Fifty Thousand Men as he had promised for his Assistance, and that the Earl of *Northumberland*, and the Lord *Basset* absolutely refused to engage themselves in the Quarrel, for the latter declar'd he would not venture so much as a broken Pate for the Duke of *Ireland* ; And the Earl plainly told Him, that he thought the Confederate Lords were not only His Majesty's Faithful Subjects, but that the whole Kingdom was ready to take their Parts ; whereupon the King finding it was in a [2.] manner impossible for Him to get over to *Calais*, and from thence to the *French* King, as He at first resolv'd ; and also that his Party in the City proved to be inconsiderable, in comparison of that of the Confederate Lords ; and that the Archbishop of *Canterbury*, with the Earl of *Northumberland*, the Lord *Basset*, and others of the Nobility, were so far from cordially joining with Him, that the utmost they could do, was to persuade Him to lay aside all Rancor and Discontent against those Confederate Lords, and to hearken to their desires. He at last, tho' with much difficulty, seem'd wholly to comply with their Advice.

[3.] K. K. Then [3.] about the Thirteenth, or Eighteenth of *November*, the Archbishop of *Canterbury*, and Bishop of *Ely*, were sent to the Confederate Lords, to know the utmost of their Demands ; and being come to them, they then took a Solemn Oath upon the Cross of the Archbishop, that they would never desist from what they had begun, until they had obtain'd such an Issue as should be for the Profit of the whole Kingdom. And to procure this, they would venture, not only their Fortunes, but also their Lives. But however, at last they came to this Resolve, That if the King would please to see them, and dismiss all Rancor and Discontent against them, they would come and pay their Duty to Him with the utmost Reverence and Respect, and would then declare to the King their Grievances, and the Causes of their Complaint, against those Five who had been the Seducers of His Majesty. Then the Bishops above-mention'd, went back to the King with this Message, who at last agreed to receive those Lords, and give them a favourable Hearing ; the Bishop of *Ely*, and the other Mediators, having first given their Oaths that no Treachery nor ill Practice should be used against them, but that they might come and go with safety ; and if any such were design'd, that they would Ad-

monish



monish them of it ; a Caution that in the Event proved not unnecessary ; for on the very Day they were to have appeared, they received Intelligence that there was an Ambuscade laid for them about the *Mews* ; whereupon, they delay'd their coming ; and the King (who had waited an Hour or two for them beyond the time appointed) enquiring into the reason, was told by the said Bishop, that it was because He did not keep his Word ; for there were secretly planted above a Thousand Armed Men, to cut them off in their Passage. The King seemed extremely enraged at this Treachery, and swore that He was not in the least privy to it, and therefore commanded the Sheriffs of *London* to search the *Mews* ; and if they found any Persons there assembled for such purpose, to kill them on the Spot : But in truth, the Contrivance was not there, but in a Place at *Westminster*, where Sir *Thomas Trivet*, and Sir *Nicholas Brambre*, had for that purpose got together a very great number of their Faction in Arms, who upon this Discovery, dispersed, and retired into *London*.

But [1] upon the King's fresh Assurance of safe Conduct to the Lords, they soon after arrived in his Royal Presence, whom they found in *Westminster-Hall* in his Robes of State, with his Crown on his Head, and Scepter in his Hand ; and when they came near the King, they saluted Him on their Knees : Then the King making Signs to them to come up the Steps of the Throne, they bow'd again, and at the top of them, they the third time saluted Him on their Knees ; and then the King arose, and took every one by the Hand, in token of his Friendship, and sat down again. After this they excused themselves to the King, saying, *That they did not think, or intend any Evil against his Person ; but they told Him their chief Grievance was concerning the Five Traytors (above-mention'd,) and gave the King a full Account in Writing, of what they charged them with :* He hereupon promised them, before all there present, That He would cause them to appear next Parliament, and stand to the Judgment of the Laws of the Land, and prefixed a Day for the Meeting of the Parliament.

*Walsingham* is somewhat more particular in this Relation, and says, That upon their being admitted into the King's Presence, the Bishop of *Ely*, then Chancellor, made them a Speech on his Majesty's behalf, gravely blaming them for their raising Forces without any sufficient Cause ; and withal commended the King's Goodness, who chose thus graciously to treat with them, rather than to chastise them by Arms ; which he told them his Majesty wanted not Power easily to have done.

To this the Lords answered, That they had assembled together for the Good of the King and Kingdom ; and for the Removal of Traytors from his Presence and Councils, naming, particularly *Robert de Vere Duke of Ireland*, *Alexander Nevil Arch-Bishop of York*, *Michael de la Pole Earl of Suffolk*, *Robert Tresilian*, and *Nicholas Brambre*, whom they averred to be Traytors, and then flung down their Gloves (according to the Custom of those Times) in token that they were ready to prove them to be such by Battle.

To this the King answer'd, That it should not be determined in that manner, but in the next Parliament, which He appointed to be on the Morrow after the Purification of the Blessed Virgin ; where both Parties appearing, should have Justice done them according to Law ; and

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The Lords receive Intelligence, That there was an Ambuscade about the *Mews*, ready to fall upon them ; wherefore, they would not attend the King.

[1] *Id. ib.*  
T. W.  
The Confederate Lords are received by the King, in *Westminster-hall* in great state.

They excuse themselves for what they had done, and declare against the Favourites, whom they desire may appear at the next Parliament.

The Confederate Lords proffer to make good their Charge against the Favourite by Combat.

The Business is referred to the Decision of the next Parliament, and all things to continue as they were till then.

in

*Anno Dom.* 1387. in the mean time, all of them should be in the King's Protection, without injuring one another : Then having also reprov'd them for taking up Arms without his Authority, and told them how easily He could have quell'd them by Force, he took up his Uncle the Duke, who was all this while on his Knees ; bidding the rest also to rise, and after some other more kind Discourse, and drinking with the King, they took their Leaves of him : Two Days after (the more to appease the Lords, and satisfy the People) he caus'd a Proclamation to be made in *London*, seemingly in Excuse and Favour of the Duke of *Glocester*, and his Associates ; but indeed, only to amuse them, and preserve his dear Favourites from the threatned Storm ; the Tenor whereof was to this Effect :

[1] H. K.  
Col. 2701.  
The King issues out a Proclamation, whereby the Duke of *Glocester*, and the other Lords, are declared Innocent.

The [1] King there declares to all his Faithful Subjects throughout his Kingdom, That whereas *Thomas Duke of Glocester*, *Richard Earl of Arundel*, *Thomas Earl of Warwick*, had been by certain Persons, who little understood the Truth of Affairs, defam'd as *Traytors* to him, and his Kingdom ; but having, by the highest deliberation and diligence weigh'd the Cause of such Scandal, and with the Assistance of his Council search'd out the Truth, he found not any thing done or acted by them worthy of Suspicion : wherefore he declares the said defamation to be void of all Truth ; and testifies the said Duke and Earl to be of good Fame, Innocent, and not so much as suspected of any Crime ; and as far as he is able, will affirm and maintain them so to be, and will receive them from thence forward into his special Protection ; and he is further willing to make known to all Persons who were their defamers, viz. *Alexander Arch Bishop of York*, *Robert Duke of Ireland*, with the other Three already mention'd, whom he also takes into his Protection, that they may answer whatever shall be Objected against them in his next Parliament ; commanding that none upon any pretence whatsoever shall either to them or the fore-named Lords, openly or secretly, offer any kind of Grievance or Disturbance, till the prefixt time of the said Parliament.

[2] T. W.  
The Confederate Lords refuse to separate, and why?

But [2] for all these fair Words, the Confederate Lords knowing the King's fleeting and variable Temper, the Influence that those Counsellors and Favourites had over him, as well as their Malice and Perfidiousness, thought it the safest Course not to separate themselves as yet, but with a vigilant Eye to observe their Motions ; for the Duke of *Ireland*, and the rest accused, would not venture to appear with the King at this Meeting, and 'twas their wisest Course to be absent ; for 'tis believed, the King's Presence would scarce have been able to have protected them ; nor had they any mind to hazard themselves on the Justice of the next Parliament ; but rather resolved, if they could, to secure themselves by Arms. For which purpose, the Duke was some Days before gone down to raise Men in *Cheshire* and *Wales*, either by the King's Commission, or Connivance ; and that it was more than the latter may be justly suspected, because when he had made considerable Levies, the King commanded *Thomas Molineux*, a Gentleman of great Courage and Estate, and Constable of the Castle of *Chester*, to accompany and safe conduct the said Duke, with all the Forces he could make, to his Majesty's Presence. The Confederate Lords being advertised of these Preparations, and that they were upon their March, being about Six Thousand Men, beset the Ways by which the Duke

The Duke goes into *Cheshire* and *Wales*, to raise Forces.  
The King commands *T. Molineux* to assist the Duke. Whereupon, the Confederate Lords resolve to hinder his march to *London*.



was to come up to *London*, resolving to fight him before he should have increased his Power, by joyning with those of his Party in the City, and so countenance his Actions with the Name and Presence of the King.

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And [1] accordingly, *Henry*, Earl of *Derby*, marched away before the rest of the Lords, with great part of their Army, and met the Duke, and his new raised Forces, near *Radcot-Bridge*, at a Place called *Babbelake*, hard by *Burford* in *Oxfordshire*, whom their Commander no sooner saw, but he, contrary to the Advice of most of those that were with him, prepared himself for flight; however, *Molineux* prevailed with him to joyn Battel; but it was no sooner begun, before the Duke (who had been so good at raising Quarrels, shewed himself as mean in ending them) set Spurs to his Horse, and forsook the Field; whereby his Men being disheartned, and Sir *T. Molineux* slain on the Spot, the Earl of *Derby* obtained a cheap, but entire Victory, allay'd with nothing but the escape of the Duke; who having mounted a Fleet Horse, designed to have passed the River at *Radcot-Bridge*, but finding that broken, then thought it his safest Course to cast off his Armour and Sword, and to swim over; and so escaping, first got into *Holland*; but finding there but cold Entertainment, he went to *Utrecht*; and after two or three Years rambling up and down as a Traytor, died at *Lovain* in *Brabant*: But to return to the Action; his Horse and Arms being found on the brink of the River, it raised a general Report at the first, that he was drowned; and that probably might facilitate his escape. Amongst his Baggage was taken a very considerable Sum of Gold, and (what was of greater Value) the King's Letters, ordering his present repair to *London*, and promising to live and die with him against all Opposers.

[1] *Id. ib.*  
The Earl of *Derby* marches away before, and meets the D. of *Ireland* near *Radcot-Bridge*, who, upon their joining Battel, quits his Men, and flies.

He escapes with much difficulty into *Holland*, and dies some time after at *Lovain*.

This [2] Defeat confounded the whole Cabal of the Favourites; the Earl of *Suffolk* in disguise flies to *Calais*, where his own Brother, being Governor of the Castle, not only refused to harbour him, without consent of the Lord *William Beauchamp*, who commanded the Town, but also seized and delivered him into his Hands, who returned him back a Prisoner into *England* to the King; but He not only suffered him to go at large, but sent for *Beauchamp* over, and for some time committed him Prisoner, for his too officious Diligence; and 'tis supposed the rather, because he had for the King's Interest thwarted his Pleasure; for on the late Bargains, and private Intrigues with *France*, about the selling of *Calais*, (as has been already said) the French King sent a Knight with Letters under his Privy-Signet, commanding the Lord *Beauchamp* to deliver up the Town to him, and one Sir *John Golofre*; but the Governor knowing the vast Importance of the Place, and believing the King was imposed upon by wicked Council, resolutely answered, That the Custody and Government of the Town was committed to him, in the Presence, and by the Authority of the King, and the Nobles of the Realm, openly and publickly, and he would not surrender it privately and collusively, nor part with his Command, but in their Presence and by their Command: And also he took *Golofre's* Letters to the French King from him, and secretly transmitted them to the Duke of *Glocester*; for which Affronts, the King waited an Opportunity to be revenged on him, and had proceeded ('tis thought) more severely, but that the said *Beauchamp* was a Person extremely Beloved, and the King was not at present

[2] *Id. ib.*  
The Duke of *Ireland's* Defeat, breaks the Cabal; and the Earl of *Suffolk* flies over to *Calais*, but is there seized, and sent over into *England*.

[3] H. K. Col. 2698.  
The Lord *Beauchamp* is displac'd from his Government of *Calais* for that Action; and because he refused to deliver up the Town to the French.



*Anno Dom.* 1387. sent in a Condition to use Rigour against him; and therefore by the Mediation of Friends, he was quickly discharged. But to return to the Matter.

The rest of the Favourites run away, and the King betakes himself to the Tower.

The rest of this hated Faction, as the Arch-Bishop of *Tork*, the Lord Chief Justice *Tresilian*, and others, ran each a several way, and were not to be heard of; nay, the King betook himself to the Tower of *London*, and there made Provision for his Winter-Quarters; his Designs being frustrated, first by his Minion's Rashness in taking Arms, and afterwards by his Cowardice in using them; and to add to his Confusion, about the same time an Envoy from the *French* King was taken with Letters, whereby He sent a safe Conduct for King *Richard*, the Duke of *Ireland*, and some Others, to such a Number, with their Attendants, to come to *Boloigne*; where He would be ready to receive them with all the Ceremony due to his Royal Dignity and their Character; and then He was likewise to take Possession of *Calais*, and other strong Holds, for which (*Walsingham* says) He had already paid King *Richard* some part in hand, tho' it seems He lost his Money.

Letters of safe Conduct are intercepted from the *Fr.* King for King *Richard*, and the Duke of *Ireland*, &c. to come to *Boloigne*.

*Anno Dom.* 1388.

[1.] *J.W.H.K.*  
*ib. ad hunc An.*

The Lords, with their Forces, march from *St. Albans* to *London*, and then send a Message to the Mayor, and chief Magistrates of the City.

The King consents to a Conference with the Lords, and the Particulars of their Meeting.

The King is confounded at their Remonstrance, and melts into Tears.

The King promises to meet the Lords at *Westminster* the next Day, but failing to come thither, they send him a very bold Message.

The Confederate Lords being now satisfied, that such considerable Territories were like to be lost Abroad, as well as fresh Extravagancies acted at Home; [1] in the beginning of the *Christmas* Holy-days hastened their March from *Oxford*, first to *St. Albans*, and then to *London*; where, with an Army of Forty Thousand Men, they arrived on *St. Stephen's-day*. As soon as they were come, they sent a Message to the Mayor, to know of him, and the other Magistrates of the City, which Party they would take: Upon this, the Mayor and Aldermen went out to the Lords, and delivered to them the Keys of the City, whilst the Citizens furnished them with Victuals, and all other Provisions. Then, after the Lords had caused all suspicious Places to be searched, for fear of any Treachery, they took up their Head-quarters in the Suburbs, protesting that they would not depart without a Personal Conference with the King; which at last He granted, when He saw He could no longer withstand it; but first permitted them to search the Tower (where at that time He lay) to take away all Jealousies. Then the Duke of *Glocester* and the Earls waited upon Him there; and when some few cold Compliments were over, they laid before Him the Confederation against their Lives at *Nottingham*, his late Letters to the Duke of *Ireland*, contrary to his Royal Word and Agreement He had made at *Westminster*, together with his dishonourable Treaty for delivering up *Calais* to the *French*, &c. The King heard them with a formal Patience and Attention, yet with a dejected Countenance, not without intermingling some Tears, thereby seeming to confess, That He could neither deny nor justify what they complained of; these warm Drops, and the Consideration of the King's Youth and easy Nature, made the Lords much more relent than they would otherwise have done; whereupon it was at last agreed, That He should meet them the next Day at *Westminster*, there to treat of the weighty and necessary Affairs of the Realm. But no sooner were they gone, than some Abusers of his Royal Ear suggested, that his going thither would be neither honourable nor safe for Him; but in all likelihood, would expose his Person to immediate Danger and Contempt, as well as occasion a future curbing and lessening of his Authority; whereupon, the King changed his Mind, and began to retract his Promise; which



which incensed the Lords to that degree, that being than flush'd with Opportunity and Power, they sent him peremptory word, *That if He did thus trifle with them, and would not come to Consult the good of the Realm, they would take other measures; threatening no less than the Election of another Prince.* This so terrified the King, that He was forced to meet them; and at [1.] last to consent (tho' with sufficient Reluctance) that all those Favourites should be Banished for Ever; viz. *Alexander Nevil, Archbishop of York, the Bishop of Durham, Fryar Rusbok, the King's Confessor, and the Bishop of Chichester* (but both the Archbishop and he had already gone out of the way.) To these we must add the Lords, *Zouch (of Haringworth) Burnel, and Beaumont, and several Knights, as, Sir Alberick de Vere, Sir Baldwin Be-resford, Sir John Worth, Sir Thomas Clifford, Sir John Lovel, &c.* together with certain Ladies, who were (saith *Walsingham*) not only useless, and unprofitable at Court, but likewise Scandalous, and Infamous in their Conversations; such as were the Lady *Mohun, the Lady de Molyns, and the Lady Poynings, Wife to the said Sir John Worth, who all were obliged to appear next Parliament.* There were likewise actually taken into Custody [2.] *Sir Simon Burley, Sir Thomas Trivet, Sir Nicholas Brambre, Sir William Elinham, Sir John Beauchamp of Holt, the King's Steward, or Privy-Purse, and of Clergy-Men, Richard Clifford, John de Lincoln, Richard Motford, Nicholas Lake, Dean of the Chappel, with John Blake, Barrister at Law, who were all clap'd up close Prisoners in several Castles.* As for the Judges, *Fulthorp, Belknap, Holt, Burgh, Cary, and Lutton,* they were Arrested as they sat upon the Bench, but *Tresilian* for the present escaped by running away, tho' he was not long after discover'd, and sent to the Tower.

Matters being thus prepared, [3.] on the Seventeenth of December, Writs were issued out for the Calling of a Parliament, to meet on the Third of February, or the Morrow after the Purification of the Virgin Mary next coming; on [4.] which day, *Thomas Bishop of Ely, and Chancellor of England, Brother to John Fitz-Alan Earl of Arundel, (from whence this Bishop had his Surname de Arundel)* declared the Cause of the Summons, which was to consider by what means this distraction of the Realm, through Evil Management, might for the future be Composed, the King better Advised, the Nation better Govern'd, Misdemeanors more severely Punish'd, and Good Men more Encourag'd: How the Kingdom also might be best defended, the Sea best kept, the Marches of Scotland securely guarded, Guyenne preserved, and lastly, how the Charges of these things may most easily be born; and then gave notice, that whoever would Complain in Parliament, of such things as could not well be Redress'd by the Common Law; might carry their Petitions to the Clerk in Chancery; there named, and appointed to receive them.

Then [5.] *Thomas Duke of Gloucester* kneeling before the King, said, He understood his Grace had been inform'd that he was about to Depose Him, and make himself King, and therefore proffer'd to stand to the Judgment of his Peers in Parliament. Upon this the King declared openly, that He did not think him Guilty, and so had him fully excused.

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[1.] He at last consents to the Banishment of His Favourites.

[2.] Several of the King's Ministers and Judges are put in Prison.  
[3.] Rot. Claus. 11 Rich. 2. M. 24. dorf. A Parliament Summon'd.

[4.] Rot. Parl. 11 Rich. 2. N. 1. Part 11. The Causes of it are declared by the Bishop of Ely, then Chancellor, viz. To consider how to settle and restore the Realm, and also for its Guard, and Security.

[5.] Ib. N. 6. The Duke of Gloucester justified from any Evil Design against the King.

Anno Dom.  
1388.

[1.] *ib. N. 11.*

[1.] The Lords Spiritual and Temporal there present then claimed as their Liberty and Franchise, that all great Matters moved in that Parliament, and to be moved in other Parliaments in time to come; touching the Peers of the Land, should be discussed, and Judged by the Course of Parliament, and not by the Law Civil, or by the Common Law of the Land, used in the Inferior Courts of the Kingdom; which Claim, Liberty, and Franchise, the King very graciously allowed; and granted in full Parliament.

[2.] *ib. N. 7.*

The Lords Appellants make Protestation, that whatever they, or those of their Party had done, was for the honour of God, and safety of the King, and Kingdom.

[2.] Then the Five Lords Appellants (or Prosecutors of the late Criminals) viz. *Thomas Duke of Gloucester, Henry Earl of Derby, Richard Earl of Arundel, Thomas Earl of Warwick, and Thomas Earl of Nottingham*, as Earl Marshal, made open Proclamation in full Parliament, That what they had done touching their Appeal and Suit in that Parliament, and had done before, by the Assistance of the People in their Company (or of their Retinue) was done Principally to the honour of God, and in aid and safety of the King, and his Kingdom, and the security of all their Lives.

[3.] *ib. N. 11.*

The Lords and Commons grant a Tenth, and half a Fifteenth, with a Protestation.

This [3] done, the Lords and Commons granted half a Tenth, and half a Fifteenth, with Protestation, that it was done of necessity, and that it might be no prejudice to the Lords and Commons in time to come, because it was so granted; and further they pray the King, that notwithstanding this Grant so made, the Parliament might hold on its course, yet be Adjourn'd, if need were; and that all things touching the said Parliament, might be done and executed, as if the Grant had not been made until the end of the Parliament, in manner accustomed, and then the King granted their Request, as a thing He ought to do of Reason.

[4.] *ib. N. 12.*

In fine. The Lords and Commons take an Oath on the Cross of Canterbury.

On [4.] Friday the twenty first of March, (which was the forty sixth day of Parliament) each of the Prelates, Lords, and Commons had the Oath following Administred to them upon the Cross of Canterbury, in full Parliament.

[5.] *ib. N. 12.*

The Oath in French, in Dr. Brady's Appendix. N. 106.

*You shall Swear that you will keep, and cause to be kept the good Peace, Quiet, and Tranquility of the Kingdom; and if any will do to the contrary thereof, you shall oppose and disturb him to the utmost of your power. And if any People will do any thing against the Bodies of the Persons of the Five Lords; that is to say, Thomas Duke of Gloucester, Henry Earl of Derby, Richard Earl of Arundel and Surrey, Thomas Earl of Warwick, and Thomas Earl Marshal, or any of them, you shall stand with them to the end of this present Parliament, and Maintain and Support them with all your power, to live and die with them against all Men; no Person, or any other thing excepted, Saving always your Legiance to the King, and the Prerogative of His Crown, and the Laws and Good Customs of the Kingdom.*

[5.] *Rot. Parl.*

11. R. 2. N. 16. They also grant the King a Subsidy on Leather, and Woolfells, on condition that the Lords Appellants should receive 20000 l. out of it.

[5.] Then the Lords and Commons further Granted to the King in defence of the Realm, a Subsidy upon Leather, Wooll, and Woolfells, upon Condition that the Five Lords Appellants should have out of it Twenty Thousand Pounds, by Assent and Grant of the King, for their Labour and Expences before that time, for the Honour, Profit, and Safety of the King, and whole Kingdom.

[1.] The



[1.] The Commons also Pray, That no Person of what Estate so-  
ever, do intermeddle with the Business of the Kingdom, nor the Coun-  
cil of the King, but those Assigned in this Parliament, unless it be by  
Order of the Continual Council; and Prayed also, That they might  
have Power to remove all Persons from the King, which they thought  
fit to remove, and put others in their Places.

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[1] *ib. N. 23.*  
The Petition  
of the Com-  
mons con-  
cerning Coun-  
cellors.

To which the King's Answer was, as to the *First* Point of this  
Article the King granteth it, as to the *Second*, if any Lord of the  
Council, or other Lord of the Kingdom will inform the King, that  
He had about Him any Person, not Sufficient or Honest, He willeth  
that if it be proved, he shall be removed, and another more sufficient,  
by Advice of Himself, put in his Place.

*ib.* The King  
puts off the  
granting it.

[2.] In this Parliament, the Lord's Appellants, viz. Thomas Duke  
of Gloucester, Constable of England, Henry Earl of Derby, Richard  
Earl of Arundel and Surrey, Thomas Earl of Warwick, and Thomas Earl  
of Nottingham, and Marshal, did Accuse and Appeal Alexander Arch-  
bishop of York, Robert de Vere Duke of Ireland, and Michael de la  
Pole Earl of Suffolk, being to this effect.

[2.] *ib. Par. 2.*  
The Lords  
Appellants  
accuse Alex-  
ander Arch-  
bishop of  
York, &c. of  
High Trea-  
son.

That as false Traytors and Enemies to the King, and Kingdom, ta-  
king advantage of his tender Age, and the Innocency of his Person, they  
inform'd and put upon him for Truth divers false things of their own  
invention, against all Loyalty and good Faith, and made him entirely  
their own; so that they had his Love, firm Faith, and Credit, while  
He hated and suspected his Loyal Lords, and Lieges, by whom He  
ought to have been Govern'd. That these false Traytors had encroach'd  
to themselves Royal Power, by [3.] enslaving the King, blemishing  
his Sovereignty, and lessening his Prerogative, and Royalty, and  
made Him so Obedient to their Will, that He was Sworn to be Go-  
vern'd, Counsell'd and Conducted by them; by Vertue of which  
Oath, they kept Him in Obedience to their false Imaginations, and  
mischievous Deeds, contained in the following Articles.

I.  
The Articles  
of their Im-  
peachment.

[3.] Disfranchi-  
fians.

Also whereas the King is not bound to take any Oath, but on the  
Day of his Coronation, or for the common profit of Himself, and  
Kingdom, the aforesaid Alexander, Robert, and Michael, false Tray-  
tors and Enemies to the King, and Realm, made Him to Swear, and as-  
sure them, that He would maintain, support, and live and die with  
them; and also whereas the King ought to be of more free Condi-  
tion than any other of his Kingdom, they have put Him more in Ser-  
vitude, than any one, against his Honour, Estate, and Royalty, a-  
gainst their Legiance, as Traytors to Him.

II.

Also the said Robert, Michael, and Alexander, by the Assent and  
Counsel of Robert Tresilian, that false Justice, and Nicholas Brambre,  
false Knight of London, by their wicked Contrivance, would not per-  
mit the great Men of the Kingdom, nor good Counsellors, to come  
near the King, nor would suffer Him to speak with them, unless in  
their Presence and Hearing, encroaching to themselves Royal Power,  
Lordship and Sovereignty, over the Person of the King, to the great  
Dishonour and Peril of the King, the Crown, and his Realm.

III.

Also the aforesaid Alexander, Robert Vere, Michael de la Pole,  
Robert Tresilian, and Nicholas de Brambre, by their false Wickedness,  
evilly advised the King, so that his Personal Presence which He ought  
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IV.

*Anno Dom.* 1388. to make to the Great Lords and his Liege-People, and the Favours and Right, to which they requested his Answer, were not to be obtained, but at their Pleasure and Allowance, in staying the King from his Duty, and against his Oath, and turning the Hearts of the great Lords from Him, with design to estrange his Heart from the Peers of the Land, to have amongst them the sole Government of the Kingdom.

v. Also by the said Encroachment of *Robert de Vere*, Duke of Ireland, and *Michael de la Pole*, with the Advice and Counsel of *Alexander*, Arch-Bishop of *Tork*, they caused the King, without Assent of the \* Kingdom, by their Aberments, without any Deserts of the Persons, to give divers Lordships, Castles, Towns, and Mannors, as well annexed to his Crown as others, as the whole Realm of *Ireland*, the Town of *Okeham*, and the Forest thereof, and the Lands which were the Lord *Audley's*, and other great Estates, to the said *Robert de Vere*, and others, whereby they were mightily enriched, and the King become so poor, that He had not wherewith to support, and bear the Charges of the Kingdom, unless by Impositions, Taxes, and Tributes, put upon his People, in disherison of his Crown, and to the undoing of the Realm.

\* i. e. Of the Parliament.

vi. Also by the Encroachment of the said *Alexander*, *Robert*, and *Michael*, by the Assent and Advice of the aforesaid *Robert Tresilian*, and *Nicholas Brambre*, they caused the King to give divers Lands, Mannors, Tenements, Rents, Offices, and Bailiwicks, to People of their Kindred, and other Persons, of whom they received great Bribes; and also to make them of their Party, in their false Quarrels and Purposes; as in the Case of Sir *Robert Mansel* Clerk, *John Blake*, *Thomas Uske*, and others, to the Destruction of the King and Kingdom.

vii. Also *Robert de Vere*, *Michael de la Pole*, *Alexander* Arch-Bishop of *Tork*, with the rest of the Persons above-named, by Assent and Counsel of the said *Nicholas Brambre*, &c. encroaching to themselves Royal Power, caused the King to give very great Sums of Gold and Silver, as well of his own Goods and Jewels, as the Treasure of the Kingdom, besides *Tenths*, *Fifteenths*, and other Taxes, granted by divers Parliaments, to be expended in Defence and Safeguard of the Kingdom, and otherwise, which amounted to the Sum of One Hundred Thousand Marks, and more, to the said *Robert*, and Others; and further, they caused many good Ordinances and Purposes made and ordained in Parliaments, as well for the Wars, as defence of the Kingdom, to be Interrupted, to the great Injury of the King and Kingdom.

viii. Also by the said Encroachment, and great Bribes taken by the said *Robert*, *Michael*, and *Alexander*, divers Persons not sufficient or fit, had the Guard and Government of divers Lordships, Castles, and Countries, as in *Guyenne*, and elsewhere, as well on this side, as beyond the Sea; whereby the People and Countries of those Territories being Loyal to the King, for the most part were destroyed, and great Dominions of late render'd into the hands and Possession of the Enemy, without assent of the Realm, which were never in the hands of the Enemy since the Conquest of them; as also in the Marches of *Scotland*, and elsewhere, in Disherison of the Crown, and great Injury to the Realm, as in the Case of *Harpeden*, *Craddock*, and others.

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Also



Also by the Encroachment of the aforesaid *Alexander, Robert, Anno Dom. Michael, Robert, and Nicholas*, divers People have been hindred of the benefit of the Common Law of *England*, and put to great Delays, Losses and Costs, whilst Statutes and Judgments justly made upon necessary Causes in Parliament, have been reversed, and annulled, by procurement of the said Misdoers, and Traitors; and this by reason of the large Bribes by them extorted, to the great prejudice of the Kingdom.

Also the Five aforesaid, encroaching to themselves Royal Power, as false Traytors to the King, and Kingdom, caused and Counsell'd the King to grant Charters of Pardon for horrible Felonies and Treasons, as well against the State of the King, as of the Party, against the Law and Oath of the King.

Also, whereas the great Lordship and Land of *Ireland*, hath been beyond memory parcel of the Crown of *England*, and the People thereof for all that time have been the King's Lieges, without any mesne Lord, to Him, or his Royal Progenitors, and our Lord, and his Noble Progenitors, Kings of *England*, have in all their Charters, Writs, Letters, and Patents, and also under their Seals, in augmentation of their Names and Royalty, stiled themselves *Lords of Ireland*; the aforesaid *Robert Duke of Ireland, Alexander, and Michael, &c.* as false Traitors to the King, by the said Encroachment, gave Advice, that the King, as much as was in Him, had granted that *Robert de Vere* should be King of *Ireland*; and to accomplish this wicked Purpose, the aforesaid Traitors Counsell'd and excited the King to send Letters to the Pope, to ratifie and confirm their Traiterous Intention, without the knowledge and assent of the Kingdom of *England*, or Land of *Ireland*, in parting the King's Legiance in respect to both Nations, in decrease of the Honourable Name of the King, and in open Disherison of his Crown of *England*, and full destruction of his Loyal Lieges, and the Nation of *Ireland*.

Also, whereas by the Great Charter, and other good Laws and Usages of the Kingdom, no Man ought to be taken, put in Prison, or to Death, without due process of Law, the aforesaid *Nick. Brambre*, false Knight of *London*, took by Night certain Persons out of the Prison of *Newgate*, Chaplains, and others, to the number of Twenty two, some Debtors, others accused of Felony, and some Approvers in the Case of Felony, and some taken and Imprisoned there upon suspicion of Felony, and led them into *Kent*, to a Place called the *Foul-Oke*, and there encroaching to himself Royal Power, as a Traytor to the King, and without Warrant, or Process of Law, caused all their Heads to be cut off, but one, who was appealed of Felony by an Approver, and him he suffer'd to go at large, at the same time.

Also the aforesaid *Alexander, Robert, Michael, Nicholas, &c.* Traitors to the King, and Kingdom, took great Bribes in many Cases in the Name of the King, for maintenance of Quarrels, or Suits, and one time took Bribes of both sides, or Parties, as shall be more fully shewed, if need be.

Also these five caused some Lords, and others, Royal Lieges, to be put out of the King's Council, so as they dare not to speak in Parliament, about the good Government of the King's Person, or Kingdom.

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XV.

Also whereas in the last Parliament, all the Lords, Sages, and Commons there Assembled, seeing the imminent Ruin of the King, and Kingdom, by the Perils and Mischiefs aforesaid, and for that the King had forsaken the Counsel of the Kingdom, and holden Himself altogether to the Counsel of the said Five Evil-doers, and Traytors; and also for that the King of *France* with his Royal Power, was then Shipped ready to have Landed in *England*, to have destroyed the Kingdom, and Language thereof, and there was no Ordinance then made, or Care taken for the safety of the King, and Kingdom. They knew no other Remedy, than to shew the King fully how He was ill Govern'd, Led, and Counsell'd by the Traytors, and Ill Doers aforesaid; requiring Him most humbly, as his Loyal Lieges, for the safety of Him, and his whole Realm, and for avoiding the Perils aforesaid, to remove from his Presence the said Evil Doers and Traytors, and not to do any thing after their Advice, but according to the Counsel of the Loyal and Discreet *Sages* of the Realm; and hereupon the said Traitors, and Evil Doers, seeing the Good and Honourable Opinion of the Parliament, they to undo this good Purpose, by their false Counsel, caused the King to Command the Mayor of *London* to kill and put to death all the said Lords, and Commons, except such as were of their Party; to the doing whereof, these great Traytors, and Evil-doers should have been Parties, and present, to the undoing of the King, and the Kingdom.

XVI.

Also, that those Five Traytors above-mention'd, when the Mayor and good People of *London* utterly refused, in the Presence of the King, to Murther the Lords and Commons, they, by their said Trayterous Accroachment, falsely Counsell'd the King, and prevailed with Him to leave the Parliament for many Days; and caused Him to certify, That He would not come to the Parliament, nor treat with the Lords and Commons, concerning the Business of the Kingdom, for any Peril, Ruin or Mischief whatsoever, that might happen any ways to Him, or the Realm; if He were not first assured, by the Lords and Commons, that they would not speak or do in that Parliament, any thing against any of the Misdoers, saving that they might proceed on in the Process, which was then commenced against Sir *Michael de la Pole*, to the great Ruin of the King and Kingdom, and against the antient Ordinances and Liberties of Parliament.


XVII.

Also, the said Lords and Commons, after they understood, that the King's Mind (thro' the wicked Excitation and Counsel of the said Five, &c. above-mention'd) was such, that He would not suffer any thing to be commenced, persued, or done, against the said evil Doers, so that they durst not speak, or proceed against the King's Will. And then in Parliament was read the former Counsel and Advice of the Lords and Justices, with other *Sages* and Commons of Parliament, how the Estate of the King, and his Royalty, might be best saved, against the Perils and Mischiefs aforesaid; and they knew not how to find any other Remedy, than to ordain, That Twelve Loyal Lords of the Land should be the King's Council for one Year; and that there should be made such a Commission and Statute, by which they should have full and sufficient Power to Ordain, &c. according to the Effect of the said Commission and Statute; by both which no Man was to advise the King against them,

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them, under Forfeiture, for the first Offence, of his Goods and Chattels; and for the second Offence, of Life and Member; which Ordinances, Statute and Commission, being made agreeable to the Assent of the King, the Lords, Judges, and other *Sages* and Commons assembled in the said Parliament, to preserve to the King his Royalty and Realm: When the said Traytors and Misdoers, by their Evil, False, and Trayterous Informations of the King, that the said Ordinances, Statute and Commission, were made to defeat his Royalty; and that all those who procured and counselled the making of them, and those who excited the King to consent to them, were worthy to be put to Death, as Traytors to the King.

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Also, after this, the aforesaid Five Misdoers and Traytors, caused the King to assemble a Council of certain Lords, Justices, and others, many times without the Assent and Presence of the Lords of the said Great Council; and made divers Demands of them very Suspicious, concerning divers Matters, by which the King, Lords, and Common People, were in great Trouble, with the whole Realm.

XVIII.

Also, to accomplish the said High Treason, the said Misdoers and Traytors, *Alexander, Robert, Michael, &c.* by the Assent and Counsel of *Robert Tresilian*, and *Nicholas Brambre*, caused the King to ride thro' the Kingdom with some of them, into *Wales*, and caused Him to make come before Him the Lords, Knights and Esquires, and other good People of those Parts, as well of Cities and Burghs, as other Places; and made some to enter into Bond, others by their Oaths, to stand by Him, against all People; and to effect his Purpose; which at that time was the Will and Purpose of the said Misdoers and Traytors, by their false Imaginations, Deceits, and Accroachments aforesaid; which Securities and Oaths, were against the good Laws and Usages of the Land, and against the Oath of the King, to the great Ruin and Dishonour of the King and Kingdom.

XIX.

Also, by Force of such Bonds and Oaths; all the Realm was put into great Trouble, by the said Evil-doers and Traytors, and in Peril to have suffer'd many intollerable Mischiefs.

XX.

Also, to bring about their Trayterous Purposes, the said Five caused the King to go into several other Parts of the Kingdom for some time, whereby the Lords assigned by the said Ordinances, Statute and Commission, could not advise with Him about the Business of the Kingdom; so as the Purport and Effect of the Ordinances, Statute and Commission, were Defeated, to the great Ruin of the King and Kingdom.

XXI.

Also, the said *Robert de Vere* Duke of *Ireland*, by the Counsel and Abetment of the other Four Traytors, accroaching to Himself Royal Power, without the King's Commission, or other sufficient or usual Warrant, made Himself Chief-Justice of *Chester*, and by Himself and Deputies held all manner of Pleas, as well Common as of the Crown, and gave Judgments upon them, and made Execution thereof; and also caused many Original and Judicial Writs to be Sealed with the Great Seal used in those Parts; and also by such Accroachment of Royal Power, He caused to rise with him a great part of the People of that Country; Some by Threats, Others by Imprisonments of their Bodies; Some by Seizing of their Lands, Others by many

XXII.

*Anno Dom.* 1388. dishonest Ways, by Colour of the said Office; and all this to make War upon, and destroy the Loyal Lords, and other the King's Liege Subjects, to the undoing of the King and whole Realm.

XXIII. Also, the said Traytors, *Robert de Vere, Alexander, Michael, &c.* by the Counsel and Abetment of *Robert Tresilian*, and *Nicholas Brambre*, accroaching to themselves Royal Power, caused to be delivered the said *John de Blois*, Heir of *Bretagn*, who was Prisoner, and Security to the King and Kingdom, without Assent of Parliament, or the King's Great Council, and without any due Warrant, to the great strengthening of the Adversary of *France*, the Ruin of the King and Realm, and against the Statutes and Ordinances aforesaid, made in the last Parliament.

XXIV. Also, the said Five Traytors caused the King to have a great Retinue of late of divers People, to whom He gave Badges, which was not done in antient Time, by any King his Progenitors, that they might have Power to perform their false Treason aforesaid.

XXV. Also, the aforesaid Five Misdoers and Traytors, in full Accomplishment of all their Treasons aforesaid, and to make the King give Credit to them and their Counsel, and hold them more Loyal and greater Sages, than others of the Kingdom; and the more to colour their false Treasons, caused the King to make come before Him, in several Places of the Kingdom, divers Justices and Lawyers; namely, *Robert Tresilian, Robert Belknap, John Cary, John Holt, Roger Fulthorp, William Burgh*, his Justices, and *John de Loketon*, Serjeant at Law, and with them *John Blake*, who were asked in the presence of the King, by the said Misdoers, Whether the foresaid Ordinances, Statute and Commission were made in derogation of his Royalty and Prerogative, or not? With divers other Questions, to all which they Answered in manner following. Then follow the Queries that were before proposed to the Judges at *Nottingham*, which since they are already recited, I shall here omit, and proceed to the Twenty Sixth Article against the Five Persons above-mention'd, being to this effect.

XXVI. These Five Evil-doers and Traitors, are also further Accused, that they drew away the Heart and Good Will of the King from the said Lords, and others, who had agreed to make the said Commission and Ordinances in the last Parliament, and He thereupon accounted them Enemies, and Traytors; and being sure the said Justices favour'd their Designs, contriv'd that those Lords, and others, should be Arrested, indicted and Attainted by false Inquests of Treason, and put to Death, and they, and their Issue Disherited; and these false Arrests, Indictments, and Attainders, were to be made in *London*, or *Middlesex*; and for that Purpose they had procured a False and Wicked Person, called *Thomas Husk*, to be Under Sheriff of *Middlesex*, who by their Assent, Procurement, and Command, undertook the said false Indictments and Attainders should be made and accomplish'd. And for the more compleat effecting of their Treason, they caused the King to send his Letters of Credence by one *John Rypon* a false Clerk, and one of their Crew, to the Mayor of *London*, to Arrest the Duke of *Gloucester*, and others therein named, and by force of those Letters, one *John Blake* carried to the Mayor a Bill of Information against them, by which they were to be Indicted, and Attainted; the effect of which



Bill was, That it seemed for the better, that certain of the Lords, *Anno Dom.*  
 Knights, and Commons of the last Parliament, which were Notori- 1388.  
 ously Impeachable, should be privately Indicted in London, and Mid-  
 dlesex, of Conspiracy, and Confederacy, for that they at a certain  
 Day mention'd, Falsly and Traiterously had Conspired and Confederated  
 between themselves, to make in the same Parliament, a Statute and  
 Commission against the Royalty of our Lord the King, and in derogation of  
 His Crown, and procured the same Statute there afterwards, at a cer-  
 tain Day to be pass'd; and also had procured, nay constrain'd our Lord the  
 King, to Assent against his Will to have it made: And they Traiterously,  
 against their Allegiance, hinder'd the King from using His Royalty, to  
 the great Disturison of Him, and Derogation to His Crown, against their  
 Allegiance, Swearing to maintain each other in this matter.

And further, the said Evil-doers, and Traytors set a Watch to give  
 notice of the Duke of Lancaster's Landing in England, that he might  
 be Arrested upon his arrival.

Also the above-named Five Evil-doers, and Traytors, after having  
 informed the King that He should believe that the said Statute, Ordi-  
 nances, and Commission, were made in derogation of his Royalty and  
 Prerogative, they strongly possessed him that all those who made,  
 or caused to be made the said Statute, Ordinances, and Commission,  
 had thereby a purpose to degrade, and finally to depose Him, and  
 that they would not give over that purpose, until they had perfected  
 it; for which Cause the King held them as Enemies, and Tray-  
 tors.

Also, after this False and Traiterous Information, when the Five  
 aforesaid had procured the King to hold the Loyal Lords as Enemies  
 and Traytors, the said Misdoers, and Traytors, Advised Him by  
 every way possible, as well by the Power of his own People, as by  
 the Power of His Enemies of France, and others, to destroy and put  
 to Death the said Lords, and all others who assented to the making of  
 the said Statute, Ordinances, and Commission, and that it might be  
 done so privately, as none might know of it till it was done.

Also, to accomplish the High Treason aforesaid, *Alexander, &c. Robert*  
*de Vere, &c. and Michael, &c.* by their Advice, caused the King to send  
 his Letters of Credence to his Adversary, the King of France; some by  
 one *Nicholas Southwell*, a Groom of his Chamber, and others, by  
 other Persons of small Account, as well Strangers, as *English*, Re-  
 questing and Praying the King of France, that He would with all his  
 Power and Advice be Aiding and Assisting Him to destroy and put to  
 Death the said Lords, and other *English*, which the King held to be  
 his Enemies, and Traytors, as above, to the great disturbance and  
 dissatisfaction of the whole Realm.

Also the Three last named Persons encroaching to themselves Royal  
 Power, caused the King to Promise the King of France by his Letters  
 Patents, and Messages, that for such his Aid and Power to accomplish  
 the same, He would Give and Surrender unto him the Town and Ca-  
 stle of *Calais*, and all other Castles and Fortresses in the Marshes or  
 Confiners of *Picardy*, and *Artois*, with the Castles and Towns of  
*Cheburgh*, and *Brest*, to the great Dishonour, Trouble, and Ruin  
 of the King, and Kingdom.

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XXXI.

Also, after the last named Three were sure of having Aid and Assistance from the King of *France*, by Instigation and Contrivance of the said Traytors, a Conference was to have been in the Marshes of *Calais*, about a Truce for Five Years between the Two Nations; at which Conference both Kings were to be present, as likewise the *English* Lords, whom the King then held to be his Traytors; and there *Thomas Duke of Gloucester*, Constable of *England*, *Richard Earl of Arundel* and *Surrey*, and *Thomas Earl of Warwick*, with divers others, were to have been put to Death by Treachery.

XXXII.

Also, for performance of this High Treason, the last named Three, caused the King to send for safe Conduits to the King of *France*, some for Himself, and for the Duke of *Ireland*, and others for *John Salisbury*, and *John Lancaster*, Knights, with other People with them, who were to go into *France*, to put in Execution this wicked Purpose and Treason; which safe Conduits were ready to be produced.

XXXIII.

Also, the foresaid *Nicholas Brambre*, false Knight of *London*, by the Assent and Advice of the said *Alexander &c. Robert de Vere &c. Michael*, &c. and *Robert Tresilian* False Justice, encroaching to themselves Royal Power (as before) some of them went personally into *London*, and without the Assent and Knowledge of the King, there openly in his Name made all the Crafts or Trades of that City to be Sworn, to hold and perform divers Matters not Lawful, as is contain'd in the said Oath, upon Record in *Chancery*: And amongst other things, that they should keep and maintain the King's Will and Purpose to their Power, against all such as were, or should be Rebels against the King's Person, or His Royalty, and that they should be ready to live and die with Him, in destruction of all such, who did or should design Treason against the King in any manner; and that they should be ready, and come speedily to their *Mayor* for the time being, or that afterwards should be, when and at what hour they should be required, to resist so long as they lived, all such as did, or should design any thing against the King in any of the Points above-said; at which time the King, by Evil Information of the said Misdoers, and Traytors, and by the false Answers of the *Justices*, firmly held the said Lords, and others, who contrived the said Statute, Ordinances, and Commission, to be Rebels, Enemies, and Traytors, which false Information was then unknown to the People of *London*; and also by obscure words contained in the said Oath, the intent of the Misdoers, and Traytors being to engage the People of *London* to raise their Power to destroy the said Loyal Lords, and others.

XXXIV.

Also, the said *Nicholas*, *Alexander*, *Robert de Vere*, and *Michael*, as Traytors to the King, and Kingdom, encroaching to themselves Royal Power, did of their own Authority, without Warrant from the King, or His Great Council, cause to be Proclaimed thro' the City of *London*, that none of the King's Lieges should Aid or Comfort *Richard Earl of Arundel* and *Surrey*, a Peer of the Land, and one of the Lords of the King's Great Council, during the Commission, nor should sell him Armour, Victuals, or other things necessary, but should avoid all of his Party as Rebels, upon pain of being proceeded against as Rebels, and on Forfeiture of all they were worth; shewing Letters Patent from the King, for making such Proclamation, being to the Destruction of the King's Liege Subjects.

Also



Also the said *Nicholas Brambre*; by Assent and Counsel of the said *Anno Dom.*  
*Alexander, Robert de Vere, and Michael*, caused it to be Proclaimed 1388.  
 in the City of *London*, That no Person should be so hardy as to pre-  
 sume to speak any ill of the said Misdoers, and Traytors, upon pain  
 of Forfeiting to the King whatever they were worth. XXXV.

Also the said Five Traytors to the King, and Kingdom, caused the  
 King to make certain Persons to be Sheriffs thro' the Kingdom, na-  
 med and recommended to Him by the said Evil Doers, and Traytors, to  
 the intent that they might get such Persons as they should name, re-  
 turn'd for Knights of the Shire to serve in Parliament, to the undoing  
 of the Loyal Lords, and Commons, and also the good Laws and Cu-  
 stoms of the Kingdom. XXXVI.

Also the said Five Misdoers, and Traytors; during the time of  
 Protection, to hinder the *Appeal* against them, falsely Counsell'd, and  
 prevailed with the King to Command by His Letters divers Knights,  
 and Esquires, Sheriffs, and other Ministers of several Counties, to  
 Levy and Assemble all the Power they could to join with the Duke  
 of *Ireland* against the Lords *Appellants*, to make sudden War upon,  
 and destroy them. XXXVII.

Also during the time of the said Protection of the said *Robert de Vere,*  
*Michael &c. Alexander &c. Nicholas, &c.* they caused the King by  
 His Letters, to signify to the Duke of *Ireland*, that they were all Ap-  
 pealed of Treason, by *Thomas Duke of Gloucester, Constable of Eng-*  
*land, Richard Earl of Arundel and Surrey, and Thomas Earl of War-*  
*wick*, and how He had given them day until the next Parliament; and  
 how He had taken into His special Protection both Parties, with all  
 their Goods, and Chattels; and it was further contain'd in the King's  
 Letters, that if the Duke of *Ireland* should have sufficient Power, he  
 should not cease to March on with all his Force to come to Him; and  
 soon after they caused the King to write to the said Duke, that he  
 should take the Field with all the Force he could get together, and  
 that he would meet Him with all his Troops, and that He would ad-  
 venture his Royal Person with him, and that He was in great danger,  
 as also the whole Nation, if He was not relieved by him; and this  
 the Duke ought to declare to all the People with him, and that the  
 King would pay the Wages and Costs of the said Duke, and all the  
 People Assembled with him: By Vertue of which Letters, and the  
 Wicked and Traiterous Instigations, as well of the Duke, and his  
 Adherents, and all the other Misdoers, and Traytors, he raised a  
 great number of Men at Arms, and Archers, as well in the Counties  
 of *Lancaster, and Chester, as in Wales, and other Places of the King-*  
*dom, to destroy and put to death the said Loyal Lords, and all*  
*others who had Assented to the making of the Statute, Ordinances, and*  
*Commission, in defence of the King, and His Kingdom.* XXXVIII.

Also the said *Robert de Vere, Duke of Ireland, False Traytor* to the  
 King, and Kingdom, Assembled a great Power of Men at Arms, and  
 Archers, in *Lancashire, Cheshire, Wales, and many other Places, to*  
 the intent to have Traiterously destroyed with all his Power the said  
 Lords, *Thomas Duke of Gloucester, Constable of England, Henry Earl*  
*of Derby, Richard Earl of Arundel and Surrey, Thomas Earl of War-*  
*wick, and Thomas Earl Marshal, with divers others the King's Lieges,*  
 to the undoing and ruin of the King, and the whole Kingdom; and  
 Vol. III. so

*Anno Dom.* 1388. so Rode or Marched with a great Force of Men at Arms, and Archers, from the Country of *Chester*, to *Radcot-Bridge*, accroaching to himself Royal Power, and displaying the King's Banner in his Army, against the State of the King, and His Crown.

[1.] *Rot. Parl.*  
11 *Rich.* 2.  
Part 3. M. 14.

[2.] The  
Persons Ap-  
peal'd not ap-  
pearing, their  
Default is Re-  
corded, and  
Judgment is  
demanded a-  
gainst them.

[3.] *It.*

Causes only  
to be Tried  
in Parliament,  
and by  
whom.

This Impeachment was Exhibited on *Monday* the Third of *February*, being the first Day of the Parliament, when the Lords Appellants also affirmed they were ready to prove every Article of it, as should be awarded in Parliament, to the Honour of God, and the Advantage and Profit of the King, and the whole Realm. [1.] Whereupon all the Persons Appeal'd, were by Command of the King, and Lords, Solemnly Summon'd in the Great Hall at *Westminster*, as also at the Gate of the said Palace, to come in and Answer the said Appellants; But their non-appearance, the said Duke and Lords Appellants pray upon that their [2.] Default might be Recorded. Then upon the said Appellant's alledging that the accused had full notice of the said Appeal, and the King and Lords being satisfied it was so, by reason they did not appear, their Default was Recorded accordingly; whereupon the said Duke and Earls Appellants prayed the King and Lords that they might be Adjudged and Convicted of the Treasons contain'd in the said Appeal; then the King and Lords took time to consider and examine the Articles, after which they would give such Judgment in this Case, as should be to the Honour of God, the Advantage and Profit of the King, and the whole Kingdom. Then the King Commanded the said Lords to Examine the Articles severally, which they did with great Labour and Diligence, until Thursday the Thirteenth of *February*.

[3.] During this Interval, the Justices, Serjeants, and other Sages of the Law, both of the Realm, and of the Law Civil, were Charged by the King to give their faithful Advice to the Lords of Parliament, how they ought to proceed in the above-said Appeal. Then the said Justices, Serjeants, and Sages of both Laws, having taken these Matters into their Deliberation, Answer'd the said Lords of Parliament, that they had seen and well understood the Tenor of the said Appeal, and affirm'd that it was not made nor brought according as the one Law or other requir'd; upon which, the said Lords of Parliament having taken Deliberation, and Advice, it was by the Assent of the King, with their common accord declared, That in so high a Crime as is laid in this Appeal, and which touches the Person of the King, and the Estates of this Realm, and is perpetrated by Persons who are Peers thereof, together with others, the Cause cannot be tried elsewhere, but in Parliament, nor by any other Law, or Court, except that of Parliament, and that it belongs to the Lords of Parliament, and to their free Choice and Liberty, by antient Custom of Parliament, to be Judges in such Cases, and to judge of them by the Assent of the King; and thus it shall be done in this Case, by Award of Parliament, because the Realm of *England* is not, nor ever was (neither is it the Intent of the King, and Lords of Parliament that it shall ever be) Rul'd or Govern'd by the Law Civil, and therefore it is not their Intent, otherwise to proceed in so High a Case as this Appeal, which cannot be Tryed or Determin'd any where else than in Parliament, since the Process or Order used in Inferior Courts,



is only as they are intrusted with the Execution of the Antient Laws and Customs of the Realm, and the Ordinances and Establishments of Parliament, and it was the Judgment of the Lords of Parliament, by Assent of the King, that this Appeal was well and duly brought, and the Process upon the same was good and effectual, according to the Laws and Course of Parliament, and by which they will Award and Judge it.

Upon this, the *Appellants* again moved the King and Lords to Record their Default; and that *Nicholas Brambre* (who was the only Person in Custody, might be brought to Answer. Then the other Persons Appeal'd were again Summon'd to come in and make Answer, but they did not appear; nevertheless the King and Lords took time to deliberate till the next day, being the fifth of *February*, at which time, the said *Appellants* again Prayed that the Default of the *Appealed* might be Recorded, which was done accordingly.

After which, the [1.] Archbishop of *Canterbury*, in behalf of himself, and all other the Suffragan Bishops, with the Abbots, Priors, and other Prelates, holding of the King by Barony, made Protestation, and deliver'd it in Writing, for the saving of their Right of Peerage, and Sitting and Voting in Parliament, notwithstanding they could not now be there, by reason of certain Matters then in agitation, at which by the Sacred Canons, they could not be Personally present. The like Protestation was made by the Bishops of *Duresm*, and *Carlisle*, *mutatis mutandis*; which Protestation being at the Instance of the Archbishop, and other Prelates, Read in full Parliament, was by the Command of the King, and Assent of the Lords Temporal, Enrolled in the Rolls of Parliament.

And then, on the Thirteenth of *February*, the King and Lords of Parliament being Met again in the White-Hall, the said *Appellants* Prayed, that the last Default of the said Archbishop, Duke, and Earl, with *Robert Tresilian* should be Recorded. Then the Persons accused being again Summon'd (the third time) and not appearing, the Lords proceeded to Judgment, and declared, that divers of the Articles therein Contain'd were Treason, as the First, Second, Eleventh, Twelfth, Fifteenth, and Seventeenth, as also the Eighteenth, Twenty Ninth, Thirtieth, Thirty First, Thirty Second, Thirty Seventh, Thirty Eighth, and Thirty Ninth Articles; and then upon due Information of their Consciences, they Pronounced the said Archbishop, Duke, and Earl, with *Robert Tresilian*, to be Notoriously Guilty of each of the said Articles that concern'd them; and that they were also culpable in all the rest of the Articles contain'd in the said Appeal, not yet declar'd Treason.

Then in presence of the King, and Lords assembled, at the Day and Place aforesaid, the said Duke and Earls *Appellants* pray'd the King, and Lords there present, that the Persons so appeal'd as aforesaid, should be adjudged Convicted of the High Treasons contain'd in the said Appeal. Wherefore the said Lords of Parliament there present, as Judges of Parliament in this Case, by assent of the King, Pronounced their Sentence, and do Adjudge the said Archbishop, Duke, and Earl, with *Robert Tresilian*, so Appealed as aforesaid, to be Guilty and Convicted of Treason, and to be Drawn and Hang'd as

Traytors,

ib.

The Archbishop's Protestation.  
[1.] ib. N. 9.  
See it at large in Dr. Brady's Appendix.  
N. 9.

it.

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*Anno Dom.* 1388. *Traytors, and Enemies to the King, and Kingdom, and that their Heirs should be Disinherited for ever, and their Lands, and Tene-ments, Goods and Chattels Forfeited to the King, and that the Tem-poralities of the Archbishop of York should be taken into the King's Hands; and because the like Case had not been seen in the Kingdom, concerning the Person of an Archbishop, or Bishop, the Lords would advise by assent of the King what they should best do, for the honour of God, and of Holy Church, and the safety of the Laws of the Land, about Him.*

16. Then the Duke and Earls *Appellants* prayed that Sir *Nicholas Brambre* might be brought to Answer, and on *Monday* the Seventeenth of *February* the Constable of the Tower brought him into the Parliament, where the Articles of appeal were read before him, to which he pleaded not Guilty in any Point, and said he was there ready to make good what he said by his Body, as a Knight ought to do. The Lords answer'd, Battel did not lie in that Case, and that they would Examine the Articles touching the said *Nicholas*, and take due Information by all true, necessary and convenient ways, that their Consciences might be truly directed what Judgment to give in this Case, to the honour of God, the advantage and profit of the King, and His Kingdom, and as they would answer it before God, according to the Course and Law of Parliament.

16. During this Examination, on Wednesday the Nineteenth of *February*, Sir *Robert Tresilian* was taken (being Conceal'd in an *Apothecarie's House* in *Palace-yard*) and brought into Parliament; who being asked if he had any thing to say which had happen'd since Judgment had passed upon him, why Execution should not be done? and He having nothing to say, it was Commanded that he should be carried to the *Tower*, and from thence drawn upon a Hurdle thro' the City of *London*, to the Gallows at *Tyburn*, and there to hang by the Neck, and that the Execution should be done upon him by the Marshal of *England*, taking to his assistance the Mayor, Sheriffs and Aldermen of *London*; and he was Executed the same Day accordingly.

16. On the Morrow, which was the Twentieth Day of *February*, Sir *Nicholas Brambre* was brought into Parliament, and the Lords upon diligent Examination, due Proof and Information, found him also Guilty of *High Treason*, and they awarded by assent of the King, that as a Traytor, and open Enemy to the King, and Kingdom, he should be Drawn, and Hang'd, his Heirs for ever Disinherited, and his Lands and Tenements, Goods and Chattels Forfeited to the King, and he was Executed on the same Day accordingly, and in the same manner as was Sir *Robert Tresilian*.

16. It was then Resolv'd to be the Intention of all the Lords of Parliament, Spiritual, and Temporal, as well the Lords *Appellants*, as all others, and by them agreed, *That considering the tender Age of the King before that time, and the Innocency of His Royal Person, nothing contained in the Appeal, nor in any Article thereof, nor in the Judgment given, should be accounted any Fault or Dishonesty in His Person, in any manner, for the Causes above-said, nor should turn in prejudice of His Person by any Contrivance, or Interpretation whatever; but that the false Treason and Default above-said, should be Charged upon the Appealed,*

and



and that the Judgments given against them should have full Force and Vertue, notwithstanding any thing could be said, or alledged to the contrary. Anno Dom. 1388.

Upon Monday the Second Day of March next following, Sir Robert Belknap, late Chief Justice of the Common Bench, Sir Roger Fulthorp, Sir John Holt, and Sir William Burgh, late his Companions of the same Bench; Sir John Cary, late Chief Baron of the Exchequer, and John Lockton, late Serjeant to the King, were accused and impeach'd by the Commons in Parliament, for putting their Hands and Seals to the Questions and Answers given at Nottingham as aforesaid, by the Procurement of the said Appealed and Convicted Persons of Treason, to cover and affirm their High-Treasons, &c. a Copy whereof was Exhibited and Read before them, and they were answered, as was furnished by the Commons in the said Copy; to which the Appealed replied, They could not gainsay, but that the Questions were such as were then asked them, but the Answers were not such as they put their Seals to.

But Sir Robert Belknap Pleaded in Particular, That the Archbishop of York, in his Chamber at Windsor, told him that he had devised and drawn up the Commission and Statute, whereby the Government was wholly taken out of the King's Hands, and that he therefore hated him above all Men, and that if he found not some way to make void the said Statute and Commission, he should be Slain as a Traitor. He answer'd, That the Intention of the Lords, and such as assisted at the making of them, was, that they should be for the Honour and good Government of the State of the King, and Kingdom; That he twice parted from the King dissatisfied, and was in doubt of his Life, and said these Answers proceeded not from his good will, but were made against his Mind, and were the effects of the Threats of the Archbishop of York, Duke of Ireland, and Earl of Suffolk, and that he was Sworn, and Commanded in the presence of the King, upon pain of Death, to conceal this Matter, as the Council of the King, and prayed for the Love of God he might have a gracious and merciful Judgment.

Sir John Holt alledged the same matter of Excuse, and made the same Prayer, so did Sir William Burgh, and Sir John Cary; who all made the same Excuse, and made the same Requests, as did also Sir Roger Fulthorp, and John Lockton Serjeant at Law.

To [1.] all which the Commons Answer'd, They were taken and holden for Sages in the Law; and the King's Will was, that they should have answer'd the Questions as the Law was, and not otherwise; as they did, with Design and under Colour of Law, to Murder and Destroy the Lords; and Loyal Lieges, who were aiding and assisting in making the Commission and Statute in the last Parliament, for the good Government of the State of the King, and Kingdom; and therefore the Commons pray'd they may Adjudged, Convicted, and Attainted as Traitors.

[2.] Upon which, the Lords Temporal took time, by good Deliberation to Examine the Matter and Circumstances of it; and for that they were present at the making of the said Statute and Commission, which they knew were contrived for the Honour of God, and for the good Government of the State of the King, and whole Kingdom;

[1.] It. The Answer of the Commons, to the Excuses of the Judges.

[2.] It. The Judgment of the Lords upon the said Offenders.

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and that it was the King's Will they should not have otherwise answer'd them than according to Law, and had answer'd as before; they were by the Lords Temporal, by the assent of the King, adjudged to be Drawn and Hanged as *Traytors*; their Heirs Disherited, and their Lands and Tenements, Goods and Chattels to be Forfeited to the King.

[1.] *ib.* The Impeachment of *John Blake*, and *Thomas Usk*, two Counsellors at Law.

On [1.] Tuesday *March* the Third, *John Blake*, and *Thomas Usk* were brought into Parliament; and first *John Blake* was Impeached by the Commons, That being retained of Council for the King, he drew up the *Questions*, to which the Justices made *Answer*, and contrived with the Persons *Appealed*, that the Lords, and other the King's Loyal Lieges that caused the said *Commission* and *Statute* to be made in the last Parliament, should be Indicted in *London* and *Middlesex* for Treason; and that they should be Arrested, and Traiterously and Wickedly Murdered, and that he was Aiding and Advising in the Treasons afore-said, with the *Appealed* already Executed.

Then *Thomas Usk* was Accused, for procuring himself to be made Under Sheriff of *Middlesex*, to the end to cause the said Lords, and Loyal Lieges to be Arrested and Indicted, as had been said before, and was Aiding and Countelling the *Appealed* in the Treasons afore-said.

[2.] *ib.* They excuse themselves as having acted by the King's Command.

[2.] *John Blake* Answer'd, That he was retain'd of Counsel for the King by his Command, and Sworn to keep secret his Advice, and whatever he did, it was by the King's Command, whom he ought to obey; and *Thomas Usk* gave the same Answer. Whereupon the Lords Temporal took Deliberation until the Morrow, being the fourth of *March*, when the said *John* and *Thomas* were again brought into Parliament; and good Advice and Deliberation having been taken by the Lords, they Pronounced them Guilty of the Things whereof they were Accused. And whereas they alledged for their Excuse the King's Command, it made the Crime the greater, for that they knew well that the Persons *Appealed* and Condemned, had encroached to themselves Royal Power, as is said before, and it was Their Command, and not the King's; then the Lords awarded, by assent of the King, that they should both be Hanged and Drawn as *Traytors*, and open Enemies to the King, and Kingdom, and their Heirs Disherited for ever, and their Lands, and Tenements, Goods and Chattels Forfeited to the King, and they were Executed the same Day.

The Judgment of the Lords upon them.

[3.] *ib.* The Lords give Sentence of Death upon all the late Judges.

On [3.] Friday the Sixth of *March*, Sir *Robert Belknap*, Sir *Roger Fulthorp*, Sir *John Holt*, Sir *William Burgh*, Sir *John Cary*, and *John Lofton*, were brought into the Parliament, and the Lords were satisfied that they were at the making of the said *Commission* and *Statute* in the last Parliament; and Sir *John Cary* knew well they were made to the Honour of God, and the good Government of the State of the King, and the whole Kingdom, and so on, as in the other Processes; and then they had Judgment again passed upon them as before. And at that very time came in the Archbishop of *Canterbury*, and all the Bishops of both Provinces, and prayed the Lords Temporal, [4.] that the Execution as to their Lives might be Respited, so that they might obtain their Lives of the King: Who thereupon Ordered Execution should be stayed, and granted them their Lives. But as to the other part of their Sentence, that was to remain in Force, and their Bodies

[4.] Upon Intercession of the Bishops, the King grants them their Lives.



to be in Prison during the King's Pleasure; until by Advice of the Lords He should direct otherwise concerning them. *Anno Dom. 1388.*

On [1.] the same Friday, Thomas Bishop of Chichester was Impeached and Accused by the Commons, That he was present at the Places and Times when the said Questions were put to the Justices, &c. and the Answers made, and excited them by Threats to Answer as they did, and knew the false Purposes and Treasons designed by the Traytors adjudged, and aided and assisted them, and would not make Discovery to any of the Lords, that caused the said Commission to be made last Parliament, whereby Remedy might have been had for the Safety of the King, and Kingdom. [2.] To which the Bishop Answer'd, That of his own free will, he had not excited them to do or say any thing; and further said, they were not excited or charged to say any thing but what the Law was; and touching the Concealment of the Treason, he had made such assurance as he could not discover. And said further, that the Traytors were about the King, and had such Power over Him before, that he had not so great Interest in the King, as to prevent those Mischiefs that now came upon him. [3.] The Commons Reply'd, He had upon the Matter confess'd himself Guilty, and prayed he might be Attainted. Upon this Answer of the Bishop, the Replication of the Commons, and all Circumstances of the Accusation, the Lords took time to give such Judgment, as might be for the Honour of God, and Profit of the King, and Kingdom. *[1.] Ib. The Bishop of Chichester is impeach'd. [2.] His Defence. [3.] The Commons Reply to it. The Lords take time to give Judgment.*

In [4.] the mean while, on the Twelfth of March following, Simon Burley, John Beauchamp of Holt, John Salisbury, and James Barners Knights, being brought into Parliament, they were at the Instance of the Commons Impeached. *[4.] Ib. Sirs Simon Burley and other Knights Impeached.*

The [5.] Articles Exhibited against them were Sixteen; the First Article in the Appeal, was the First Article in the former Impeachment. In the Second Article they were accused as Traytors, and Enemies of the Kingdom, for that they knew of all the Treasons in the Appeal mentioned, and that they were aiding, assisting, counselling, and assenting to all the Traytors Attainted; and that Simon Burley, and John Beauchamp were Principal Actors in all the said Treasons. In the Eighth Article they were accused for Conspiring and Designing with the Five Persons Appealed, to destroy and put to death those who were assenting to the making of the said Commission and Statute in the last Parliament; the rest are of less moment, but all relating to the Articles of the Appeal, to which they all Plead'd Not Guilty. The Commons Reply'd they were Guilty, and the Lords took time to Examine and Consider the Impeachment. Upon this, and the Bishop of Chichester's Impeachment, the Lords Temporal adjourned until Friday the Twentieth of March, on which day, the whole Parliament was adjourned until the Monday next after, or on the Morrow of the Quindene of Easter, or Thirteenth of April; on which Monday, the Lords Temporal took further time to deliberate upon these Matters until the Fifth of May. When [6.] Sir Simon Burley being brought into the Parliament, was by the Lords, after due and sufficient Examination, and Information, found Guilty of Treason. And one of the Articles for which he was Condemned (besides those above-mention'd) is very Remarkable, and I shall here set it down, Translated into English, from the Record. *[5.] Ib. The Articles of their Impeachment. [6.] The Parliament is Adjourned, and the Lords take time to deliberate. He is Condemn'd to be hang'd, but is Pardon'd by the King's Grace.*

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1b. N. 7.  
A Remark-  
able Article  
against Sir  
Simon Burley.

Item, *The said Simon Burley being Chamberlain to our Lord the King in His tender Age, and being obliged to Counsel Him for the best, to the Advantage of Him, and His Realm, he the said Simon by his Wicked Contrivance and Procurement, Advised the King to entertain in His Household great Numbers of Aliens, Bohemians, and others, and to give them large Gifts out of the Revenues and Profits of the Realm, whereby our Lord the King is greatly Impoverished, and the People otherwise Oppressed.* For which, as well as upon some of the other Articles, the Lords, with the assent of the King awarded, and then by assent of the King it was awarded That he should be Drawn and Hanged, and his Head cut off, and all his Lands and Tenements, Goods and Chattels to be Forfeited to the King. But His Majesty Remitted his Drawing, Hanging, and Quartering, because he was a Knight of the Order of the Garter, so his Head was only sever'd from his Body the same day upon *Tower-Hill*. Yet the King did most of all regret the death of this Gentleman, as having been bred up with the Prince His Father, and being a great Favourite to the Son, had been Employ'd in divers Ambassies abroad. He was certainly a Man of great Personal Courage, but is Characterized by our Historians to have been very Insolent and Luxurious; and from a small beginning, to have rais'd a vast Estate, by the Bounty of his Master.

On *March the Twelfth*, *John Beauchamp*, *John Salisbury*, and *James Barners* Knights, were brought into Parliament, and had the same Judgment. *Beauchamp* and *Barners* had their Drawing and Hanging Pardoned, but had their Heads struck off on *Tower-Hill*, on the same *Twelfth* of *March*.

[1.] 1b. The  
Bishop of Chi-  
chester has  
Judgment to  
lose his Lands  
and Goods.

On [1.] the same day likewise was the Bishop of *Chichester* sent for into Parliament, where the Lords Temporal found him Guilty of Treason, as it was laid in the *Impeachment*, and by assent of the King, they awarded his Heirs should be Disherited, his Lands, Tenements, Goods and Chattels Forfeited to the King, and the Temporalities of his Bishoprick seized into the King's hands; but as to his Person, the Lords would advise what to do, for the Honour of God, and Holy Church, and the Safety of the State of Prelacy, and of the Laws of the Land.

[2.] He, with  
the like Jud-  
ges, are Or-  
der'd to be  
kept Prisoners  
in Ireland, and  
to be allowed  
sufficient  
maintenance.

Then [2.] in the same Parliament it was Ordained, that this Bishop, Sir Robert Belknap, Sir Richard Fulthorp, Sir John Holt, Sir William Burgh, Sir John Cary, and John Locketon, should be all sent into Ireland, to several Castles and Places, there to remain during their Lives. And it was also then Order'd, that Sir Robert Belknap, and Sir Roger Fulthorp, for their support during their Lives, should have each of them Forty Pounds a Year; Sir John Holt, and Sir William Burgh Forty Marks a Year; Sir John Cary, and John Locketon Twenty Pounds a Year of the King's Gift, and each of them to have two Servants to wait on them: and that the Bishop of *Chichester* should have Annually Forty Marks for his Sustenance during his Life, if any of his Friends would give him so much.

[3.] 1b. The  
late Ordinance  
and Commis-  
sion is Con-  
firmed in Par-  
liament, and  
the Duke of  
Gloucester, and  
the rest of the  
Lords, and  
others are  
Pardon'd.

Then [3] upon a Petition of the Commons, the said Ordinance and Commission made the last Year, were Confirmed, and likewise all that was done in that Parliament; and also what the Duke of Gloucester, Earls of Warwick and Arundel then did; and all that the same Duke and Earls, with the Earls of Derby, and Marshal, or any of them



them had done, or any other of their Company, or Aid, or their Adherents, or any of them, by their Assemblings, Ridings, or Marching in Arms, Appeals, and Pursuits, as things done to the Honour of God, the Safety of the King, Maintenance of His Crown, and Support of the whole Kingdom; and also in pursuance of the same Petition, had a full Pardon for all things that they had done, or Committed.

[1.] Upon a *Second* Petition of the Commons, all those that had been of the Retinue, Company, Aid, Counsel, Assent, or Adherence of them that were *Attainted*, or Judged in this Parliament, for all things they had done, were Pardoned, except those therein named.

[1.] *lb.* And all those that were on the other side are also Pardon'd.

A [2.] *Third* Petition was deliver'd by them in the same Parliament, that the *Appeals, Pursuits, Accusations, Process, Judgments, and Executions* made and given in this Parliament, should be Approved, Affirmed, and Established, notwithstanding the Lords Spiritual were absent; and that by Imagination, Interpretation, or any other means, none of the same be reversed, broken, or annulled in any manner; and whosoever should endeavour to break, annul, or reverse any of them, should be adjudged to have Execution as a *Traitor*, provided always that this acceptance, approbation, affirmance, and establishment, touching *Appeals, Pursuits, Accusations, Process, Judgments, and Executions* be in force in this Case only, and that they be not drawn into Example, or Consequence for the future. And divers Points were declared for *Treason* in that Parliament, which were not declared by Statute before, yet no Justice should have Power to give Judgment in other Cases of *Treason*, nor in other manner, than they had before the beginning of this Parliament.

[2.] *lb.* The Commons Petition that the former Appeals and Judgments should hold good, notwithstanding the absence of the Bishop.

A [3.] *Fourth* Petition was then also deliver'd, That none of the *Traitors* attainted by the *Appeal* or *Accusations* of the Commons who were then alive, should ever be restored to the Law, by Pardon, or any other manner, saving the Grace and Pardon that was made in this Parliament; and any one that should endeavour to have such a thing done, should be Judged, and have Execution as a *Traitor*.

[3.] *lb.* None of the Peers Attainted, to be Pardon'd.

The [4.] Answer to all these Petitions was, *That the King by the Assent of the Lords and Commons, Granted their Petitions in all Points, and willed His Grant should be firm and stable, according to the Contents of the Petitions, without blemish for ever.*

[4.] *lb.* *vid.* Statutes at Large. 11. *Rich.* 2. Cap. 1. & *Rot. Parl.* N. 39. 46. These Petitions are passed into a Statute.

Then the Commons humbly Pray the King, for the Nourishing of greater Love, Peace and Quiet for the future in all parts of the Nation, that He would please to renew His *Coronation-Oath*, and that the Prelates might renew their *Fealty*, and the Lords Temporal their *Homage*, notwithstanding they had done it before; which was also assented to.

The [5.] Preparation and Introduction to this Great Ceremony, was with the *Mass* of the *Holy-Ghost*, Sung in the Church of *Westminster*, on *Wednesday* the Third of *June*, being the Twenty first day of the Parliament, after *Mass* was ended, and a Sermon Preached by the Archbishop of *Canterbury*, the King of his Free-Will Renew'd His *Coronation-Oath* with great Solemnity in the said Church, at which time the Prelates Swore *Fealty* to Him, and the Temporal Lords did Him *Homage*, and then the Prelates, Lords, and Commons openly took a New Oath, as followeth.

[5.] *lb.* The King takes His *Coronation-Oath* anew, with great Solemnity.

1388.

1388.

Parl. 11.

2. N. 48.

De. 58.

and N. 107

e New

Oath that  
now ta-  
ken by the Bi-  
shops, Lords,  
and Commons

All Persons  
Excommunicated,  
that should act  
contrary to  
this Oath.

This Oath is  
impos'd upon  
Gentlemen,  
and Inferior  
Officers.

[1.] T. W.  
Ad hunc An.  
A Parliament  
at Cambridge,  
and what was  
done at it.

[2.] Id. ib.  
The Earl of  
Arundel again  
put out to  
Sea, burns 80  
French Ships,  
and plunders  
the Isle of  
Rea, &c.

[3.] Id. ib.  
H. K.

You shall Swear that you will not Assent, nor Suffer, as much as in you lies, that any Judgment, Statute or Ordinance made in this present Parliament, shall in any manner be Annulled, Reversed, or Appealed, in any time to come; and further, that you will support the good Laws and Usages of the Kingdom, and to your Power firmly keep and cause to be kept the good Peace, Quiet; and Tranquility of the Kingdom, without disturbing it in any manner. So God you help, and the Holy Saints.

And the Archbishop of Canterbury, and Prelates Excommunicated all such as should break the Peace and Quiet of the Realm, and do contrary to this Oath. On the next day, being *Thursday* the Fourth of *June*, this Parliament ended; which, says *Knyghton*, was called the *Unmerciful* Parliament; and indeed it did justly enough deserve that Title, since by their own Rigid and Severe Proceedings against the Favourites, they so far alienated the King's affections from his Uncle the Duke of *Gloucester*, and the rest of the Lords of that Party, that He never forgave them so long as He lived. And this Resentment continued so deeply imprinted in his Mind, that you will find hereafter, in the Twentieth Year of His Reign, He not only got another Parliament, which made void and reversed whatsoever had been done in this, but having first procured his Uncle the Duke of *Gloucester* to be Murther'd, He got him therein to be *Attainted*, together with the Earls of *Arundel* and *Warwick*, who had been the great Enemies of His Favourite the Duke of *Ireland*, and the rest of the Noblemen of that Party, as hath been already related at large.

I have no more to observe concerning this Parliament, but that this Oath was also impos'd upon all Gentlemen, and Dignified Persons of the Clergy in all Counties in *England*; and upon all the Mayors, Bailiffs, and Aldermen of Cities, Burghs, and Towns, by the King's Writ, directed to the Sheriff, and one Special Commissioner to Administer it. This bears Date *June* the Fourteenth, in the Eleventh Year of this King.

Then [1.] after Harvest, another Parliament was held at *Cambridge*, in which many wholsom Laws passed; as against Beggars, against Riding Armed, the giving Liveries to excessive Retinues, touching *Labourers*, and Apparel suitable to People's Ranks; and especially that none should go out of the Realm to the Pope, to procure the Grant of any Benefices in *England*, without the King's Leave, on Penalty of being put out of His Protection. Also a Tax was Granted to the King, viz. a Tenth of the Clergy, and a Fifteenth from the Laity.

As [2.] to Military Actions this Year, after *Whitsontide*, the Earl of *Arundel* again went out to Sea, and Burnt, Sunk or Took Four-score French Ships, and likewise Seis'd and Plunder'd the Isles of *Rea*, and *Oleron* (the latter of which is Famous for the Laws *Marine* there said to be compos'd and agreed upon by King *Richard I.*) this he took, together with some other smaller Islands in those Parts.

[3.] This Year the *Scots* Invaded the West Marches of *England*, near *Carlisle*, Burnt and Plunder'd the Country, and carried away above Three Hundred Persons Prisoners. They also in *August* did the like



like in the East *Marches*. But since [1.] *Froisart* has a more particular account of this last Action, than any of our own Historians, I shall from him give you the Sum of it. He says, That the Noblemen of *Scotland* taking advantage of the late Divisions in *England*, Resolv'd in a Council held at *Aberdeen*, to Invade that Kingdom in two Bodies; of which, the one being the Vantguard, was to be Commanded by the Earls of *Douglas*, *Dunbar*, and *Murrey*, and consisted of Two Thousand Chosen Foot, and Three Hundred Lances on Horseback. These entering *England* privately, passed the River *Tine* above *New-Castle*, yet committed no Hostilities 'till they entred the Bishoprick of *Durham*, and then they fell to burning and spoiling the Country in a most outrageous manner, almost to the Gates of that City; after which, they return'd back by *New-castle*, and Encamped before it. There were then in the Town the Lord *Henry*, Eldest Son to the Earl of *Northumberland* (called from his suddain and bold Undertakings *Hot-spur*) and *Ralph Piercy* his Brother, with many other Knights, and Gentlemen of the North, whose Names it is needless to relate; and tho' the *Scots* could not take the Town, yet they Block'd up one side of it; then the *English* under the Command of the Lord *Piercy*, Sallied out, and Combated with the *Scots* before the Barriers, and in this Action the Earl *Douglas* encountering the Lord *Piercy* hand to hand, had so far the better, as that he carried off his Lance, with the Pennon or Flag to it; at which, that Lord was so enrag'd, that he vow'd to recover it, before they should carry it into *Scotland*. But when the *Scottish* Commanders saw there was no more to be done there, they rose from before the Town, and Marched nomeward, and in their way took and burnt the Town and Castle of *Penclaw*, and from thence went and besieged the strong Castle of [2.] *Otterborn*, which being seated in a Marsh, could not be taken by Storm; wherefore the *Scots* sat down before it, and laid close Siege to it.

Anno Dom.  
1388.

[1.] Vol. III.  
C. 123, 124.

[2.] This Author calls it *Ottebourg*, but falsely.

[3.] Ib.  
Cap. 124.

The [3.] Lord *Piercy* having Intelligence of this, resolv'd to march thither, not only to recover his Pennon, but to raise the Siege. And tho' the Bishop of *Durham* was daily expected with the Militia of that County, yet he would not wait for his coming, but resolv'd to March against the *Scots* with Eight Thousand Foot, and Six Hundred Lances on Horseback, and with them he arrived that Evening before their Camp, and fell in upon their Out-Guards with great fury, crying out a *Piercy*, a *Piercy*; but the *Scots* were very well prepar'd to receive them; and whilst the Camp Servants and ordinary Soldiers receiv'd the first Charge, the *Scottish* Commanders, with the Nobility, and Gentry arming themselves, marched out in the head of their Followers; and tho' the *English* were two to one, yet the *Scots* acquitted themselves so Valiantly, that they not only repulsed, but quite routed the *English* Forces, and took above a Hundred Knights, and other Persons of Quality Prisoners; the Chief of whom were the Lord *Piercy*, and his Brother. There were near Twelve Hundred *English* Slain upon the Place, the *Scottish* Writers say Eighteen Hundred, and they would have been more, had they not saved themselves by Flight; and that the Enemy were too few in Number to pursue them. Yet the *Scots* had no great Cause to brag of the Victory neither, for besides the loss of a great many of their best Men, the Young and Valiant Earl *Douglas*, as he endeavour'd to pierce thro' the thickest of his Enemies,

and

*Anno Dom.* 1388. and pressed on, bearing down all before him, was unfortunately Slain. *Walsingham* calls him the Earl of *Murrey*, but he is mistaken. This Battle was Fought by Moon-light, and lasted 'till Day-break. The *Scots* upon this great and unexpected Success, took the Castle they had Besieged, and Marched home into their own Country with their Prisoners, who were not long after Ransom'd. When the other part of the *Scottish* Army had Invaded *England* by *Carlisle*, and heard of this great Victory, they thought they had done enough, and immediately also return'd. But it is very Remarkable, that the same Day the Lord *Piercy* Marched from *New-castle*, the Bishop of *Durham* came thither with Ten Thousand Men of that Country, and presently Resolv'd to March out to assist the Lord *Piercy*; but as they went, he met with the remainder of that Army flying from the Battel. This put the Bishop's Men into such a Consternation, that most of them ran away and left him. So Advising with Sir *William Lucy*, and other Commanders then with him, it was Resolv'd they should all return to *New-castle*; but had they Marched on and fell upon the *Scots*, now tired with the late Fight, they had certainly taken or kill'd most of them.

[5] *Ib. Cap.*  
123.

But to [1.] look into *France*, where about the latter end of *Autumn*, the Earl of *Arundel* not only escaped a great danger, but obtain'd an unexpected Victory; for being again gone out to Sea, with a considerable Fleet, they were taken in so great a Storm, that his Ships were separated, and he had no more left with him than Twenty Seven Sail, with which he was driven into a little Port called *La Patice*. This News being quickly brought to *Rochel*, but two Leagues off, they immediately gave the *Mareschal de Sancerre*, then Commander in Chief for the King of *France*, Notice of it. He presently Order'd the *Rockellers* to let out Six or Eight Gallies, and himself Raising the Siege of the Castle of *Bouteville*, Marched with all the Forces he could Raise, intending to burn the *English* Ships in the Harbour. But the Earl of *Arundel* having Intelligence of it, Sail'd with his Fleet, and meeting the Gallies from *Rochel* before the Harbour utterly Routed, and put them to Flight, and had pursued them had he not feared greater Force to lie behind; so being well satisfied with his Success, he immediately Sail'd away back to *Bordeaux*, and there laid up his Fleet, and left the *Mareschal de Sancerre* very much displeas'd with the *Rockellers*, for not giving him more speedy notice of the Arrival of the *English* at *La Patice*; that he might have come upon them before they had gone out from thence.

*Anno Dom.*  
1389.

[1] *H. K.*  
*Col. 2735.*  
Great Disturbance at  
Oxon among  
the Scholars.

In [2.] the beginning of Lent this Year, a grievous discord happen'd at *Oxford*, between the *Welsh* and the *Northern* Scholars, wherein several were slain, and further mischief threaten'd, but by the mediation of the Duke of *Glocester*, the Broil was compos'd, and divers of the *Welshmen* dismissed the University.

[2.] *Ib. T.W.*

About [3.] the middle of September, viz. Holy-Rood-day, the King taking the Advice of certain of his Courtiers, enter'd suddenly into the Council Chamber, the Privy Council being then sitting, and taking his place, Demanded of them how Old they took Him to be, they answer'd, Somewhat upwards of One and Twenty Tears; then

(reply'd



(reply'd he) *I am of full Age, and capable to manage my Inheritance my Anno Dom. self; for sure 'tis not fit that I should be in a worse Condition than any* 1389.  
*Subject in my Kingdom; for every common Heir, after the Death of his* The King  
*Ancestor, enjoys his Estate, and takes it into his own hand at One and* takes the Go-  
*twenty Tears of Age. At this the Lords, tho' perhaps they were unwill-* vernment in-  
*ing to grant, yet being unable and afraid to deny, held their peace,* to His own  
*and therefore the King went thus on with His Speech. 'Tis well known,* hands, and  
*(says He) that for many Tears I have lived under your Tutelage and Go-* turns out all  
*vernance, and for the pains you have taken therein We thank you, but now* the Great Of-  
*having attained to our Legal Age, We are Resolv'd to be no longer in* ficers of State,  
*Ward, but to take the Government of Our Realm into Our own Hands,* and puts in  
*and to Appoint such Officers and Ministers as We think fit, and Remove* others.  
*others, at Our Pleasure.*

Accordingly, He forthwith Commanded the Archbishop of *Tork*, 1d. ib.  
 then Lord Chancellor, to Resign the Seal, which being done, the The King de-  
 King put it into His Bosom, rose up, and went away; but soon delivers the  
 after returned, and gave it to *William of Wickham*, Bishop of *Win-* Great Seal to  
*chester*, thereby making him Lord Chancellor. He likewise turn'd out the Bishop of  
 the Bishop of *Hereford* from the Office of Treasurer, and put another  
 of less Quality in his room, and Chang'd several Chief Ministers of  
 State, partly to shew His Authority, and partly to satisfy His Dis-  
 pleasure against them; particularly He Suspended His Uncle the Duke  
 of *Gloucester*, and the Earl of *Warwick*, and others from His Privy The Duke of  
 Council, and admitted new ones in their stead, that would humour *Gloucester* and  
 Him more. The Earl of *Arundel* likewise was removed from being Earl of *War-*  
 Admiral, tho' he had been entrusted by the Parliament; and this *wick* are sus-  
 Charge was given to the Earl of *Huntington*, who now came into pended from  
 great Favour. And indeed the King, tho' He was of Age, yet shew'd the Council,  
 Himself still a *Minor* in the Art of Governing, making so bad a Choice and the Earl  
 of new Ministers and Favourites, as in a little time brought the King- of *Arundel* is  
 dom into great Confusion. turn'd out  
 from being  
 Admiral.

Soon [1] after this, certain Detractors circumventing the King, [1] 1d. ib.  
 had so prevail'd, as to make Him believe, that the Duke of *Gloucester* The King  
 was hatching some design against him; but upon Examination of the gives ear to  
 Matter, the falshood and malice of those Reports did appear; and the some false  
 King blush'd to consider his own Credulity against so near and eminent whispers a-  
 a Relation; and tho' divers of the Spreaders of them were there present, gainst the D.  
 when the Duke would have question'd them for the same, yet the of *Gloucester*;  
 King charged Him, as he lov'd Him, not to stir farther in the matter. but is soon a-  
 shamed of it.

I find [2] nothing more considerable, to have happen'd, until the [2.] The  
 beginning of *November*: And then the Duke of *Lancaster*, or Titular Return of the  
 King of *Castile*, return'd into *England* from *Gascoigne*; but before I say Duke of *Lan-*  
 any thing of what he did at home, I will give you a brief relation of *caster*, with a  
 his last Actions in *Spain*, whilst He continu'd there; the Sum [3] of brief Account  
 which was, that after He had joyn'd his Forces with the King of *Por-* of what he  
*tugal* against *John* King of *Castile*, Son to *Henry* the Bastard, and had did in *Spain*.  
 carri'd on the War some time with various Success; He at [4] last [3] 1d. ib.  
 made a Peace with him, upon very good Terms, considering the Mor- [4.] *Froiss.*  
 tality and Desertion of the greatest part of his Soldiers, for want of C. 79.  
 Victuals and other Necessaries; viz. That upon the Marriage of his  
 Eldest Daughter *Catherine*, whom He had by his Wife *Constance* (the  
 Vol. III. F f f f f f [1.] Heiress

*Anno Dom.* [ 1 ] Heireſs of *Caſtile*, to Prince *Henry*, Son of the ſaid King *John*; the Duke of *Lancaſter* and the Princeſs his Wife, were to quit their whole Right to that Young Prince and his Lady, and the Heirs of their Bodies; but if ſhe deceaſed without Iſſue, the Inheritance of that Crown was to deſcend on the Son of *Edmund* Duke of *Tork*, Brother to the Duke of *Lancaſter*, who had married *Iſabel* the Younger Daughter of King *Peter* the Cruel; upon theſe Terms, and for a mighty Sum of Money paid by King *John* to the Duke, together with an Annuity of ten thouſand Pounds a Year to him and his Dutcheſs *Conſtance* for their Lives, a firm Peace was concluded between them. All things being thus ſettled, the Duke of *Lancaſter* went into *Acquitain*, or *Gaſcoigne*, and having ſtaid there, and in *Spain*, near three Years, he return'd into *England* (as hath been now related) *Knyghron* [ 2 ] ſays, he receiv'd it from one of the Duke's Family, that the Money paid down on this Agreement was an immense Sum; and that for the Second Payment, the King of *Caſtile* ſent Him forty ſeven Mules laden with Gold in Cheſts; and beſide this, the Duke had alſo the good Fortune to marry his ſecond Daughter, by the ſame Lady, named *Philippe*, to the new King of *Portugal*: and from theſe two Princeſſes already mention'd, the preſent King of *Spain* and *Portugal*, are lineally deſcended. This ſhould have been related ſooner, had not the troubleſome Affairs of *England* in the two Preceeding Years, hindred me from giving an Account of theſe great Tranſactions.

[ 3 ] *T.W. ib.* But to return to the Duke of *Lancaſter*; [ 3. ] he having heard upon his Landing in *England*, that the King had held a great Council at *Reading*, and that His Maſteſty had there conceived ſome diſpleaſure againſt divers great Lords, to prevent the miſchief that might thereupon enſue, he immediately after his Arrival Poſted thither; by whoſe good Offices and Mediation the King's Reſentments were diverted, and Matters for the preſent pacified, and ſo the Council broke up.

[ 4. ] *Id ib.* I [ 4. ] cannot here omit the Relation of a piece of Natural Hiſtory, becauſe ſo very ſtrange and unuſual; the King being this Summer at his Mannor of *Sheen*, in *July*, on a ſuddain there appeared ſuch innumerable ſwarms of Gnats, that they darkned the Air, and then they Skirmiſhed and Fought one with another ſo long, that the Slain fell down in heaps, and being ſwept together with Brooms, and meaſured, they were found to be many Buſhels full, and the reſt that went off alive, which were reckoned about a third part of the whole, flew away, which was by ſeveral eſteemed as an ill-boding Prodigy.

[ 5. ] *Id ib.* This Year was alſo Remarkable [ 5. ] for the Death of *Michael de la Pole* Earl of *Suffolk*, and formerly Chancellor; he died in *France*, a Banished Man, and of whom my Author gives a very bad Character, as a False, Covetous and Deſigning Perſon; He was the Son of a Merchant of *Kingſton* upon *Hull*, that in the Reign of King *Edward* had raiſed a great Eſtate, which he left to this Son, who became a great Favourite of King *Richard's*, as you have already heard.

[ 6. ] *Id ib.* As to the Affairs of *France*, [ 6. ] the Biſhop of *Durham*, with *John Clambo*, and *Nicholas Dagworth* Knights, concluded a Truce with that King, tho' with ſome difficulty, by reaſon the *Scots* were to be included in it; which tho' the *Engliſh* did deſire, yet the *Scots* were averſe to conſent to; yet this Truce was agreed at laſt between the Kings of *France*, *England*, *Scotland*, and *Caſtile*, to continue for one Year;



Year; and the said Sir John Clambo, and Richard Rowal Clerk, were appointed to take the Oath of the King of France, for its due observation, whilst the Earl of St. Paul, who had Married King Richard's half Sister, was sent into England upon the like Errand. Anno Dom. 1389.

To say somewhat of Religious Matters, [1.] about the same time the Disciples of Wickliff (in those days called Lollards) being grown very numerous, their Presbyters (or Elders) took upon them after the manner of Bishops to confer Holy Orders, asserting, that every Priest had as much power of binding, loosing, and administering other Ecclesiastical Functions, as the Pope Himself either had or could bestow; and tho' the Prelates had notice hereof, yet out of negligence, or rather fear, they did not much concern themselves to suppress them, save only the stout Bishop of Norwich, who Swore, that if any of that Sect should presume to Preach in his Diocese, he would either Burn or Behead them. This Year, about the middle of October, deceased Pope Urban the Sixth, whose Obstinacy and Cruelty, as it proved a destruction to many, so it was a great loss to himself; he was a Prelate of a severe Life, but much more Rigid and Cruel to others, for he never Pardoned any when ever they had once offended him. [1.] *Id ib.*  
The Presbyters of Wickliff's Opinion; confer Orders

Whilst the King was last at Reading, [2.] He issued out Writs on the Sixth of December, for a Parliament to meet at Westminster on the Monday next after the Feast of St. Hilary; and then William of Wickham, Bishop of Winchester, Lord Chancellor, by the King's Command, opened the Cause of Summons before all the Estates, declaring the King to be of full Age, and that He intended to Govern His People in Peace and Quiet, and to do Justice and Right to all Men, and that both the Clergy and Laity should enjoy all their Liberties. Anno Dom. 1390.  
[2] *Roi. Claxf.*  
13 *Rich. 2.*  
*M. 5. dorf.*  
*Roi. Parl.*  
13. *Rich. 2.*  
*N. 1.*  
A Parliament Summon'd, wherein the King is declar'd of full Age.

On the [3.] Twentieth of January, and fourth Day of this Parliament, the Bishop of Winchester deliver'd the Seal to the King; and the Bishop of St. David's being Treasurer, deliver'd the Keys of the Exchequer to Him, and all the Lords of the Council, and prayed that they might be discharged, and others put in their Places. Who being thus discharged, openly declared in Parliament, That if any Person could justly complain of any thing done illegally, or amiss by them in their Offices, they might freely do it. But when both the Lords and Commons declared that they had well behaved themselves in their respective Places, the King thereupon deliver'd back the Seal, and the Keys of the Exchequer to the aforesaid Bishops, and again received all those to be his Counsellors, that were so before, together with his Uncles of Lancaster, and Gloucester; yet then he made a Protestation, that for any thing then done, He would keep or remove any of those Counsellors out of their Places, as He saw good. [3] *ib. N. 67.*  
The Bishops of Winchester, and St. David's, deliver up the Ensigns of their Offices, which are again restored to them.

In [4.] this Parliament John Duke of Lancaster was made Duke of Aquitain by the King, with the consent of the Prelates, Lords Temporal, and Commons, to hold the said Dukedom of the King, saving only to Him, as King of France, the direct Domion, Superiority and Ressort of the same Duchy; and being in Parliament Invested with the Cap, and Coronet, and Ducal Rod, he there did Homage to the King, and humbly thanked him for it, and for the great honour he did him; yet declar'd, that tho' he could not maintain the State of the Dukedom in time of War, without the Aid of the King and Realm, [4] *ib. N. 21.*  
22.  
The Duke of Lancaster Created Duke of Aquitain.

*Anno Dom.* however he would do what he could to the utmost of his Power; whereupon the King told him the Charges should be born as the Duke and his Council should agree, to which the Commons Assented.

1390.

[1.] *ib.* N. 23. Edward Son to the Duke of York, Created Earl of Rutland.

Then the [1.] King by Assent of the Parliament, Created *Edward* the Eldest Son of the Duke of *York*, Earl of *Rutland*, and gave him during the Life of his Father Eight hundred Marks, issuing out of the Castle, Town and Dominion of *Okeham* in that Shire, with the Office of Sheriff.

[2.] *ib.* N. 24. The Archbishop of Canterbury and York protest on behalf of their Clergy,

The [2.] Archbishops of *Canterbury* and *York*, for themselves, and whole Clergy of their Provinces, made their *Protestation* in open Parliament, that they intended not, nor would Assent to any Statute or Law to be made against the Pope's Authority, which at their Request was enter'd upon the Roll.

against any thing should be done to the prejudice of the Pope.

In [3.] this Parliament also (among other things) it was Enacted, That the King should not extend his Pardon to any Persons Convicted of Murther, and a Penalty Awarded against any that should importune the King thereunto; viz. That if it were a Duke, or Archbishop,

[3.] *Vid.* Stat. at large, 12.

*Rich.* 2. *Cap.*

The King is restrain'd from Pardoning Murther.

he should Forfeit to the King an hundred Pounds; if an Earl or Bishop, one hundred Marks; and there was also granted to the King [4] Forty Shillings on every Sack of Wooll, of which Ten Shillings should go to the King's present Occasions, and the other Thirty Shillings to be reserved in the hands of Commissioners appointed by Parliament, not to be expended, unless necessity of War requir'd.

[4.] The Parliament Grants the King a Subsidy upon Woolls.

T. W. H. K.

The Earl of

*Derby* makes

a Voyage a-

gainst the In-

fidels in *Prussia*.

[5.] *Froiss.*

Vol. 4. c. 18.

[6.] *Poi.*

*Virgil.*

About *St. James-Tide*, *Henry* Earl of *Derby*, Eldest Son to the Duke of *Lancaster*, with a select Company of a Thousand Knights and Esquires, and their Servants, went into *Prussia*, where they signaliz'd themselves by several Brave and Valiant Actions against the Infidels, and return'd home with Honour in *April* following. But since *Froissart*, and *Polydor Virgil* have laid the Scene of this Action not in the

North but Southern Parts of the World, I shall from these Authors give you some Account of this Action, which the [5.] former of them relates to have been undertaken principally by the *Genoises*, against the

*Mores*, or *Saracens* in *Barbary*, in revenge of the *Piracies* and IncurSIONS they had made upon the Coast of *Italy*. In this Expedition the

*Italians* were Assisted by a great number of *French* and *English* Auxiliaries, the former under the Command of the Duke of *Bourbon*, the

[6.] *ib.*

[6] latter under that of *Henry* Earl of *Derby*, Son to the Duke of *Lancaster*, whom tho' *Froissart* here calls his *Bastard*, yet he was certainly mistaken, for that Duke had no base Son of that Name, but *Henry* of *Beaufort*, afterwards Bishop of *Winchester*, who was bred up a Clergy-Man; but indeed no Prince of the Blood Royal was there at all; only this is certain, that the *Genoese* Fleet with the Confederate Forces Landed near *Tunis*, to the Number of about Thirty Thousand,

[7.] *ib.*

(which Place [7.] *Froissart* thro' Ignorance, or forgetfulness, only calls the City of *Affrique*) to this they laid close Siege both by Sea and Land, for about Sixty Days; but the Town being well provided with Men, and all other things necessary for a Siege, proved too strong to be taken; for after some Assaults upon it, in which the Confederates lost a great many brave Men, and some of prime Quality, they found it to be all in vain, and that also many more perished by the extreme heat of the Countrey, and want of fresh Provisions; so fearing least the *Genoises* should make a separate Peace with the *Mores*, the Com-

Vol. III.

manders



manders of the Christian Forces upon a mature deliberation, resolv'd *Anno Dom.*  
 to raise the Siege before the Winter approach'd, and at last they Em- *1390.*  
 barqued themselves, and those Men that were left alive on the same  
 Vessels that had brought them, and made for the Coasts of *Italy*, tho'  
 some of the *French* Nobility went from thence to the *Holy-Land*.  
*Polydore* Relates (tho' falsly) that the City of *Tunis* was now taken and  
 Plunder'd by the Christians; but it appears by [1.] *Froissart's* Rela- [1.] *ib. id.*  
 tion that it is a mistake.

But to return Home, whilst the Earl of *Derby* was thus engaged Abroad,  
 against the Infidels in earnest, King *Richard* employ'd Himself at Home  
 in Combates in jest; which since it may give the Reader an Idea of the  
 Romantick Humour of this Age, I shall from the [2.] Author last [2.] *ib.*  
 mention'd, give you a short Account of this great *Tourneament*, or  
*Justes* (as they were then call'd) which King *Richard* caus'd to be  
 Solemnly Proclaim'd in all the Courts of Christendom, by certain He-  
 ralds sent for that Purpose, to be held at *London* the Sunday after  
*Michaelmas*. Upon which Notice, a great many Noblemen and Gen-  
 tlemen from *France*, *Germany*, and the *Low-Countries* prepared them-  
 selves to come to it; and in Particular *William* Earl of *Ostrenant*, Eldest  
 Son to *Albe t* Earl of *Heynalt*, *Holland* and *Zealand*, came over hither  
 for that Purpose (tho' against the Mind of his Father) and *Valeran*  
 Earl of *St. Paul*, King *Richard's* Brother-in-Law, with divers other  
*French* Lords came also over to this Solemnity, which began on *Sun-*  
*day* in the Afternoon from the Tower, with a Noble Cavalcade of Sixty  
 Ladies Richly dressed, who Riding upon Fine Palfreys, led every one  
 her Knight by her side (all Armed) by a Chain of Silver, their Cour-  
 sers being carried before by as many Esquires of Honour, and thus  
 they pass'd thro' *Cheapside* to *Smithfield*, where the *Justes* were to be  
 held. Then the Knights Mounting upon their Coursers, began the  
*Tourneament*, by running one at another with their Lances, Thirty on  
 each side; after which, the King and Queen (who saw this Combat  
 from Scaffolds made on purpose) went to the Bishop of *London's* Pa-  
 lace, where they lay so long as it lasted. The next Day, the King  
 Richly Armed, Justed Himself, the Queen and her Ladies looking on;  
 and thus these *Justes* continued for four Days, from Noon till Night,  
 which was spent in great Entertainments, with Musick, and Dancing,  
 by the Queen the Ladies, and the young Nobility. On *Saturday* the  
 King, with the Earls of *Ostrenant* and *St. Paul* went to *Windfor*, where  
 the former was made a Knight of the Garter; then the Feast being  
 over, they all return'd home. But the King of *France* was so much dis-  
 pleas'd with the Earl of *Ostrenant* for taking the King of *England's* Or-  
 der, that he immediately Summon'd him to come to *Paris* to do his  
 Homage for that Earldom, thereby to assure that King of his Fide-  
 lity; which the Earl not being able to refuse, was forced to submit to,  
 so Sacred a thing was the Oath of that Order then esteem'd. I have  
 nothing more to add concerning this *Tourneament*, but only I find in  
 a [3.] Manuscript Chronicle, that it was at this Solemnity that King [3.] *Chron.*  
*Richard* the first gave that Famous Badge to all his Dependants, of a *Lambeth.*  
*Hart*, with a Gold Crown and Chain hanging from his Neck.

This Year I find little or nothing done in *England* worth observing, *Anno Dom.*  
 'till about the latter end thereof; and then in a Parliament Summon'd *1391.*  
 to meet on the Morrow after *St. Martin*, or Twelfth of *November*, in  
 Vol. III. the

*Anno Dom.* the Fourteenth Year of this King, the Bishop of *Winchester* Chancellor, declared the Cause of Summons to be chiefly concerning the Truce with *France*, and said that towards *Candlemas* the King intended to send over thither about making a Final Peace.

Then the [1.] Dukes of *York* and *Gloucester* desired the King's Bounty of a Thousand Pounds a Year in Lands to each of them, according to His Promise, to be granted in Tail special; He thereupon order'd His Justices to draw such an Assurance, and Commanded that his Uncles should be duly paid their Pensions in the mean while.

And [2.] it is to be remember'd, that the Prelates, Lords Temporal, and Commons pray'd the King in full Parliament, that the Royalty and Prerogative of Him and His Crown might always be safe, and preserved; and that if any thing had been done or attempted contrary to them, it might be Redressed, and Amended; and further, that He should be as free in his time, as any of His Noble Progenitors, Kings of *England*, were in their times: Which Prayer seem'd Honest and Reasonable to the King, and therefore granted it in all Points.

Then [3.] the Judgment given against *John* of *Northampton*, late Mayor of *London*, was Repeal'd, upon the Petition of the Commons, and Oath made by the present Mayor, and all the Aldermen of *London*, that he was not Guilty of the Treason, &c. for which he stood Condemned.

These [4.] things being dispatched, the Lords and Commons gave the King their humble thanks for his good Government, and Zeal shown to them; and He returned them thanks for the Liberal Grants they had made Him.

I [5.] find nothing else to have happen'd at Home worth our Notice, save that during the last *Christmas* Holy-days, *John de Hastings* was unfortunately killed in a *Tourneament* at *Woodstock*, being run into the Belly by Sir *John de Saint John*, in the Eighteenth Year of his Age, to the great grief of the King and whole Court, being a Nobleman of promising hopes, and of an excellent disposition: He was the last Earl of *Pembroke* of the Name of *Hastings*.

As to Foreign Affairs, the *French* now finding that they could do no good against *England*, seem'd more inclinable to Peace than ever; and to this end (as [6.] *Walsingham* relates) the Great Chamberlain of *France* was sent over by that King, and his Great Men, with a Complement; and they so earnestly desired a Treaty of Peace might be speedily had, that in order thereunto, They Prayed that a Friendly Interview might be between both Kings near *Calais*, to which King *Richard* seem'd very inclinable; and to appear the more Splendid on such an Occasion, He sent to most of the Great Abbies to Furnish Him with the best Horses they had; amongst whom, the Abbot of *St. Albans* sent him one, which our Author says was worth Four and twenty Marks, (no small Price in those Days) and yet not content with this, he demanded Fifty Marks more. He had Money likewise from most of the Cities and Boroughs of *England*, and so He got divers Considerable Sums, the better to Equip Himself for this Voyage. But after all, these mighty Preparations came to nothing, for this Interview did not take effect 'till some Years after.



To [1.] say somewhat of Ecclesiastical Affairs; there was this Year a Proclamation issued out by Order of the King and Council, requiring all those that had any Benefices in *England*, and were then beyond the Seas, or in the *Roman Court* (it being a thing too frequent in those Days, for the Pope to gratifie his Favourites and Followers with the best Preferments in *England*, tho' perhaps they were never here in their Lives,) immediately to repair hither, and to live upon their Benefices, and not to carry away the Treasure out of the Realm, by expending their Revenues in other Nations, on pain of Forfeiting all their said Benefices. This, together with the late Statutes of *Provisors* and *Præmunire*, would have Cured these Mischiefs, if the Clergy would have proved Faithful to their own Interest, and that of the Kingdom.

Anno Dom.

1391.

[1.] *Id. ib.*  
A Proclamation issued out, requiring all that had Benefices in *England*, and were beyond sea, to come over and reside upon them.

But to say something of Foreign Affairs, this Overture of a Peace being like to be finished, [2.] he, with the *French King* (who at that time joined with the *Antipope Benedict* the Thirteenth) much disturbed *Boniface* the Ninth, now Elected Pope in the room of *Urban*, that Deceased the last Year at *Rome*; wherefore the said [2.] *Boniface* (whom the *English* owned as only true Pope) forthwith sent a *Nuncio* to King *Richard* with great Complements in commendation of his Devotion, and that of his Predecessors towards Holy Church; but withal complaining of those late Invasions (as he was pleased to call them) of the Ecclesiastical Liberty, and urging Him both to Repeal the said Laws, and by no means to make Peace with the *French King*, unless He would disown and no longer Assist the *Antipope*.

[3.] Pope *Boniface* sends a *Nuncio* to the King, with the offer of his Message.

The [4.] King receiv'd the *Nuncio* very kindly, and heard his Message, but for Answer put him off to the next Meeting of the Parliament, which was to be in *November* following, and then the Business was Debated. But tho' the King, and Duke of *Lancaster* seemed willing to gratifie the Pope, yet the Commons would by no means consent that any should go to *Rome* to acquire Benefices in *England*, only that they might not seem too much to slight his Holiness, they yielded that it might be connived at, but not without the King's License, and that no longer than 'till the next Parliament. However, tho' they held their Pope to hard meat, they were not wanting in expressing their Kindness to the King, giving Him a half *Tenth*, and a half *Fifteenth*, which they offer'd to make whole ones, on Condition He would next Summer make an Expedition against the *Scots*.

[4.] *Id. ib.*  
The King's Answer to the *Nuncio*.

About *Candlemass* this Year King *Richard* sent the Lord *Thomas Piercy*, the Lord *Clifford*, and a *French Knight*, called Sir *Robert Briquet*, Ambassadors into *France*, who were very Nobly Received, and highly Treated by that King, and his whole Court. Their Business was, That King *Charles* would be pleas'd to name a Time and Place for the Dukes of *Lancaster* and *York*, and other Great Men, to come into *France*, to Treat of a Final Peace between the two Crowns. Upon which, the King Appointed the City of *Amiens* to be the Place, and the middle of the ensuing *March* the time, that He, together with his Great Men of the Kingdom would Meet and Treat with the *English* Commissioners concerning the Conclusion of a Peace. So after about a Weeks stay at *Paris*, the Ambassadors (except Sir *Robert Briquet*, whom the *French King* would not admit into his Presence, because he

Anno Dom.  
1392.

*Froissart* Vol. IV. Cap. 34.  
Ambassadors sent into *France*, and what was then transacted.

*Anno Dom.* 1392. was his Subject) being Nobly Presented by the King, took their leaves, and return'd Home.

[1.] *ib. Cap.*  
35, 36.  
The Dukes of  
Lancaster and  
York go over  
to Calais, and  
the issue of  
that Treaty  
with the  
French.

Then [1.] the Dukes of *Lancaster* and *Tork* went over to *Calais*, with a Magnificent Retinue, and from thence went to *Amiens* at the time appointed for the Treaty, where they met the King of *France*, and his Brother the Duke of *Touraine*, and his Uncles, the Dukes of *Burgundy*, and *Berry*, with most of the Chief Peers, and Nobility, by some of whom, the *English* Princes were Conducted to the King's Presence; and being by him kindly Received, they fell the next day into a serious Treaty about a Lasting Peace, which was chiefly Managed by the Dukes of *Burgundy*, and *Lancaster*. The former at first Demanded that *Calais* should be slighted and given up by the *English*, being first Demolished, and the Works Razed to the Ground; and for this, the *French* offer'd that the King of *England* should enjoy all He held in *Aquitain*, with Nine Cities more, and their Territories, free from any *Resort* or *Homage* to *France*; but this was utterly refused by the *English*, who insisted to have all the Territories that had been taken away since the Treaty of *Bretagne*, fully Restor'd. So that nothing could be then Agreed on, but a Prorogation of the present Truce for One Year longer; and so the Assembly broke up, and the Dukes took their leaves of each other, and returned into *England*; where when they were Arrived, the King upon the Report of their Proceedings, held a Great Council with His Nobility, to consider whether it were best to make Peace or not on the Conditions offer'd by the *French*. But the Duke of *Gloucester* utterly disliked them, and said it was necessary that all the Proceedings that had been made in this Affair, should be laid before the Parliament; which Proposal (he being then very Popular) none there durst oppose.

[2.] *Ad hunc*  
*An.*  
The Duke of  
Lancaster, and  
Bishop of *Dur-*  
*ham* are sent  
into *France*, to  
renew the  
Truce for a  
Year.

With this Relation [2.] *Walsingham* also agrees, only he omits the Duke of *Tork*, and mentions the Bishop of *Durham* to have been joyn'd in Commission with the Duke of *Lancaster* at this Treaty; and he calls the Parliament, or Great Council that was to Meet concerning the Confirmation of this Truce, or else renewing of the War, the *Collective Wisdom of all England*. And in pursuance thereunto, the same Author tells us, That immediately upon the Duke's Return, there was a Great Council Summon'd at *Stamford*, consisting not only of the Nobility, but certain *Representatives* of such *Cities* as used to serve in Parliaments; yet for all this they could agree upon no more than a Confirmation of the Year's Truce that had been already agreed on in *France*; from whence there came now the great Seneschal of that Kingdom, to take King *Richard's* Oath to observe it.

[3.] *Id ib.*

About [3.] the same time the Duke of *Guelderland*, an Active Young Prince, and somewhat Related to King *Richard*, sent Him a Letter full of great Complaints, and exciting Him to War and Military Actions, becoming His Royal Dignity; and particularly disswading Him from the Dishonourable Amity and League with *France*,

[4.] The D.  
of *Gueldres*  
comes over  
into *England*,  
to disswade  
the K. from  
making Peace  
with *France*,  
but without  
any effect.

then designed; and offering Him the Assistance of Two Thousand Lances, whenever He pleased to Engage in War, with other Matters, needless here to be recited. And the same Author further Relates, that not long after, this [4.] Prince came also in Person into *England*, to persuade the King against making Peace either with the *French*, or *Scots*, and that he was very Honourably Entertain'd. But it seems



his Motion was not much regarded, for the time was still spun out in further Truces, tho' nothing could be concluded as to an Absolute and Final Peace. *Anno Dom. 1392.*

This Summer affording nothing of Moment, I shall here Relate some Transactions, tho' not of so Publick a Concern. [1.] About the latter end of *June*, the Citizens of *London* fell into the King's heavy displeasure, the Causes whereof are said to be two. The First, and Principal one was, for denying to Lend the King a Thousand Pounds, which He desired; and for abusing a certain *Lombard*, who was willing to Accomodate Him with it, and (as some Authors say) the ordinary sort of People beat and half kill'd him for his forwardness: But the main Occasion was an Accident which happen'd just on the neck of the former, and was made a far greater Offence, than otherwise it need to have been; it was thus.

A [2.] Baker carrying his Bread along the Streets, one of the Bishop of *London's* Servants took a Loaf out of his Basket, which the Baker demanded to be restor'd; but the Bishop's Man instead thereof, broke his Head; for which Injury the People would have seized him, but he fled into his Lord's House. Upon this, the Constable went to the House, and peaceably desired that he might be surrender'd up to Justice, but the Bishop's Servants shut the Gates, and made Resistance. This did more and more exasperate the Common People, insomuch, that many threatned to make their way by Fire, and began to use Violence. Of which, the Mayor and Chief Officers having notice, they immediately repair'd thither, and by their Presence and Authority suppressed the Tumult, and preserv'd the King's Peace, so that the harm was but small, and all this Commotion might easily have been passed over, and forgot, had not the Bishop (whose ill-govern'd Servant was the beginning and cause of all the Broil) kindled the Fire afresh; and 'tis said, he the rather stirred in it, out of an old Grudge which he had against the Citizens, because they were generally looked upon to be Favourers of *Wickliff's* Doctrines.

But [3.] whatever the Motive was, a loud Complaint was made by him, and other Prelates to the King, affirming, that if upon every paultry Pretence, the Citizens should be suffer'd thus to affront the Bishops, without Chastisement, they would endanger not only the Dignity, but the Liberty of the whole Church. The King was so incens'd hereat (being also prepar'd by former Provocations) that He was once Resolv'd to have rais'd an Army, and Plunder'd the City, and given them the Spoil thereof. But being perswaded by more moderate Councils, [4.] He only sent for the Mayor, the two Sheriffs, four and twenty Aldermen, and four and twenty others of the Ablest Citizens, to His Court then held at *Nottingham*, where the said Tumult, and divers other Offences were laid so home to their Charge, as if they had Forfeited all their Obligations formerly given to the King. At first they Resolved to Justifie their Innocency, and faithfully engaged to stand by one another, but it seems there was Falshood in that Confederacy; and as it often happens in such Cases, some timorous Persons hoping to curry Favour, Impeached the rest, who again recriminated upon them, and so all being alike liable to be undone, they thereupon submitted themselves wholly to the King's

[1.] *Id. ib.*  
The City of  
*London* falls  
under the K's  
heavy dis-  
pleasure, and  
why.

[2.] *Caxton's*  
Chronicle.  
A Quarrel  
between a  
Baker, and  
one of the Bi-  
shop of *Lon-*  
*don's* Servants,  
which produ-  
ces a Tumult  
of the Mobb.

[3.] The  
Bishop of *Lon-*  
*don*, and other  
Prelates,  
Complain to  
the King of  
the Insolence  
of the Citi-  
zens.

[4.] The  
Mayor, Alder-  
men, and She-  
riffs are Sum-  
mon'd to *Not-*  
*tingham*, where  
great offen-  
ces are laid to  
their charge.

*Armo Dom.* Mercy, [1.] who Committed the Mayor Close Prisoner to *Windsor-Castle*, and the rest to several other Places of Confinement; Seized the

1392.

[1.] They at last submit to the King's mercy, and are committed to *Windsor-Castle*, and other Places, whilst the Liberties of the City are seiz'd into the King's hands, and a *Custos* is set over it, and the Courts of Justice remov'd to *York*.  
[2.] *Id. ib.* The Duke of *Gloucester* interceeds for the *Londoners*, who upon their submission to the King's mercy, are released.  
[3.] The K. returns to *London*, where he is receiv'd with great Pomp, the Citizens make rich Presents to Him and the Queen, and so have their Privileges restor'd.  
[4.] They are also Fin'd 10000*l.*

In the mean time, [2.] the Duke of *Gloucester*, and others, were not wanting to intercede with the King on behalf of the *Londoners*, of whom, the Principal on Sunday next after the Assumption of *St. Mary*, were brought before Him at *Windsor*, and submitted themselves, and their Fortunes to his Mercy, with which He seem'd so well pacified, that on the *Wednesday* following He [3.] came to *London* being met without the City by Four hundred Men on Horseback, clad all in one Livery, besides an innumerable multitude on Foot, a Solemn Procession of the Clergy, and Five hundred Boys in Surplices; the Fronts of the Houses Adorn'd with Tapestry, and Pictures, the Conduits freely running Wine, &c. and to make their Peace, they Presented the King with a Crown of Gold of great Value, and another of the same Metal to the Queen, together with a Picture of the *Trinity* worth Eight hundred Pounds, and several other great Gifts, and so they got their Privileges to be Restor'd, and Confirm'd to them, with the Election of a Mayor, and all things as before: And having been at all this Charge, doubted not but to be quiet and free from Further Fine or Penalty; but herein they were deceived, for notwithstanding all their Presents, and submissions before made, as I have related, the King demanded and forced them to pay after all this [4.] *Ten Thousand Pounds*, or else they must have ventur'd the effects of his new displeasure; but this Severe Usage lost Him the Affections of the Citizens ever after.

[5.] *Id. ib.* The Duke of *Gloucester* having been Furnished with Money to raise an Army for an Expedition into *Ireland* (of which the King had lately Created him Duke) when his Forces were just ready to be Ship'd, and all things prepared, he was on a sudden, without any Cause (but some needless Suspensions) recalled, and the Voyage Countermanded, to the great prejudice and damage both of *England* and *Ireland*. For upon the Report of his Coming, almost all the Petty *Irish* Kings had Advised one with another, and resolv'd to submit themselves to the *English*.

[6.] *Mezeray, ad hunc An.* Charles King of *France* call'd Distracted, and on what occasion. As for Foreign Affairs, this Year [6.] a very sad Accident happen'd to Charles King of *France*, in an Expedition he undertook against the Duke of *Bretagne*; for as he Rode one very hot and sultry Day Armed from head to foot, his Page that carried his Lance following him, and he happening to fall asleep, let fall the Lance upon the King's Helmet, which not only awakened, but put him into such a Fury, that quite bereft him of his Senses; insomuch that he fell violently upon those that were about him, and if he had not been prevented by being laid hold on, he had certainly kill'd them. This prov'd a perfect Madness,  
Vol. III.



or Frenzy, that seized him every Year about the same time; and was by an unlucky Accident not long after much increas'd, as you shall hear presently.

This Year, on the *Octaves* of *St. Hillary*, a Parliament was held at *Winchester*, [1.] in which, there was Granted to the King a *Tenth* by the Clergy, and a *Fifteenth* by the Lords and Commons for the Expences of the Dukes of *Lancaster*, and *Gloucester*, who were then going over into *France* to Treat about a Peace. This Parliament, tho' it be mention'd by *Knyghton*, and *Walsingham*, yet is omitted by *Dr. Brady*; but whether the Proceedings of it are not upon Record among the Rolls of Parliament, deserve our enquiry.

This [2.] Year also the King's-Bench, and Chancery, which had been Translated from *London*, to *York* (either out of Favour to that City, whose Archbishop was then Chancellor, or out of hatred to the *Londoners*) were now again brought back to *London*, with as great facility as they had been translated to *York* before.

This [3.] Year likewise the Lord *William Scrope* bought the Isle of *Man* of *William Montague*, Earl of *Salisbury*, together with the Crown of that Island, of which he had also the Title of King. The same Year the Dukes of *Lancaster* and *Gloucester* went over into *France* to Treat of a Final Peace, which yet could not be Concluded, by reason of that King's being Distracted, as I have said already. The Town also and Castle of *Cleburgh*, which had been Pawned some Years ago to the King of *Navarre* for Twenty Thousand Marks, that he had borrowed of the Crown of *England*, was now, upon the Payment of that Money, Restor'd.

As for other Foreign Affairs, [4.] the King of *France* had this Year a strange Preservation, tho' it cast him again into his former Distemper; for as He, with four or five of His Courtiers were Dancing at a Ball, disguised like Savages, and being dressed in Habits of died Linen, to which was fasten'd some Hair, or Flax, with Pitch, and Rosin, their Cloaths (by means of a Torch that fell down amongst them) suddenly took fire; but whether this was done by Chance, or by the Malice of the Duke his Brother, who aspired to the Kingdom, is uncertain, but this Accident produced very dismal effects: And tho' the King, by the Courage of a certain Lady, was snatched out of the Flames, which were like to have seized him, yet did not his Fellow Masquers escape so well, for before their Habits could be got off, they were miserably burnt, and some stifled to death. Nay, this Accident had that sad effect upon the King himself, that the Fright he now receiv'd, made him presently fall into his former Frenzy, which never quite left him so long as He lived, and that was many Years after. But *England* was so far from taking any Advantage by this Disorder, that a fresh Truce was this Summer Concluded with the *French*, and *Scots*, both by Sea and Land, to continue from the end of the former Truce, for Twenty four Years and an half next ensuing.

About the beginning of this Year, [5.] a Parliament was holden on the *Quindene* of *St. Hillary*, in the Seventeenth of this King, in which, the Earl of *Arundel* declared several things the King had done for the Duke of *Lancaster*, that were against his Honour and Profit; but they were such Trivial Objections, as the King Answer'd them all Himself.

*A no Dom.*  
1393.

*Rot. Pat. 16.*  
*Rich. 2. m.*  
*23. dorf.*  
1. W.

[2.] *Id ib.*  
The King's  
Bench and  
Chancery  
return to  
London.

[3.] *Id ib.*  
The Isle of  
Man sold to  
the Lord  
Scrope.

[4.] *Id ib.*  
*Mezeray, ad*  
*hunc an.*  
The King of  
*France* hardly  
escapes being  
burnt, but it  
casts him into  
his former  
Distemper.

*Anno Dom.*  
1394.

[5.] *Rot.*  
*Parl. 17*  
*Rich. 2. N. 110*  
The Earl of  
*Arundel* declares in Par-  
liament several things  
which the K.  
had done for  
the Duke of  
*Lancaster*, to  
be against his  
Profit.

*Anno Dom.* 1394. and the Earl was by the King and Lords Order'd to ask the Duke's Pardon in full Parliament, which was done accordingly.

[1.] *ib. N. 16.* The [1.] King, Lords, Knights of Honour, and Justices in this Parliament, Assented to a Peace with *France*, so as the King did not make Liege-Homage to the *French* King; and saving also at all times the Liberty of his Person, and the Crown of *England*, and of his Lieges of the same Kingdom; and that He, and his Heirs might resort and have recourse to the Name, Title, and Right of the Crown and Kingdom of *France*, if the Peace should be broken by his Adversary and his Heirs; and also that such Moderations and Modifications should be made, that no further Confiscation: that is, seizure of the Dutchy of *Guyenne*) might happen. Yet [2.] *Knyghton* says this was only a Truce for four Years, and four Months, as well by Sea, as Land.

[2.] *Col.*  
2741.

[3.] *ib. N. 17.* Then [3.] the King Charged the Commons to give their Advice in this Matter. They in a Schedule given to Him by the hands of Mr. *John Bussy* their Speaker, answered, that the Articles of Peace between the King and his Adversary of *France* were read, and in part understood by them, but they, considering that the Points therein contain'd, were too high for them to meddle with, and upon which they durst not Treat, or give any Advice; to wit, the *Homage-Liege, Sovereignty* and *Resort* to the Crown of *France*, were willing to give their consent (for the benefits of Peace) to whatsoever the Lords, Knights of Honour, and the Justices had consented to before; so as the *Homage* should be done for, and have relation to the Dutchy of *Guyenne* only, and in no wise to the Crown and Kingdom of *England*. What the Articles of this Peace were, doth not appear upon the *Parliament-Roll*.

[4.] *Ad hunc*  
*An.*

[4.] *Walsingham* is more particular in the Transactions of this Parliament, and gives us an account of the ground of that Quarrel above-mention'd, between the Duke of *Lancaster*, and Earl of *Arundel*, viz. That the Earl laid to the Duke's Charge, that about the Feast of the Exaltation of the *Cross*, or middle of *September*, he had lain still with his Forces at his Mannor of *Holt* in *Cheshire*, whilst that Country was up in Arms against him, under the leading of *Nicholas Clifton*, and his Accomplices, without the Earls Acting any thing against them which (as his Accuser alledged) was in their Favour; this the Earl expressly deny'd, and so well defended himself, that he came off without any further question.

[5.] *Id. ib.*  
The Commons  
grant the K.  
an Aid for his  
Voyage into  
*Ireland*,

In [5.] this Parliament also, the King designing to go over into *Ireland* demanded an Aid, and the Commons granted Him for three Years a Subsidy upon Wooll, Wool-fels, &c. and Three Shillings upon every Tun of Wine, and Twelve pence upon every pound of Merchandise, as in the eleventh Year; so as the same should only be employed for the defence of the Realm. &c. And the Clergy also granted the King a full Tenth, if he went over thither, but if He did not, then He was to receive but half a one.

[6.] *Vol. IV.*  
*Cap. 51.*  
*Ann.* The  
Year is there  
mistaken by  
this Author,

I shall [6.] here intermix some Foreign Affairs of Moment; In the beginning of *May*, *Froissart* informs us of what our own Historians are silent, that the Treaty concerning a Final Peace between the King of *England* and *France* was again renewed, and the Dukes of *Lancaster*, and *Gloucester*, together with the Archbishop of *Tork*, and Bishop of *London*,  
Vol. III.



London, were sent over for that purpose; and they were met by the *Anno Dom.*  
 Dukes of Berry, and Burgundy, and other French Commissioners, at a *1394.*  
 certain Village called *Leulingham*, between *Calais*, and *Bolcigne*. This  
 Treaty held many days, the French making the same Demands, and  
 much the same Offers to the English as they had done at the last Treaty  
 at *Amiens*, and the Answers of the English were much to the same pur-  
 pose with the former; so that by Reason thereof, nothing could be con-  
 cluded as to a lasting Peace, only it was agreed, that the Truce should be  
 again prolonged until the Feast of *St. Michael*, in the Year 1398, besides  
 which, there were certain Additional Articles agreed on between them,  
 for including the *Scots* and other Confederates on both sides, as al-  
 so to prevent the Surprising of Towns and Castles on either part, by  
 treachery; and further, that the strong Town and Castle of *Cherbourg*  
 should be restored to the King of *Navarre*, upon the French Kings  
 paying to the English, the Sum of Sixty thousand Nobles, for which it  
 had been mortgaged to him; and also the Castle of *Brest* was to be re-  
 stored to the Duke of *Bretagne*; This truce being concluded in Trea-  
 ties (of which kind *Froissart* well observes the French have always had the  
 Advantage) the English Plenipotentiaries return'd home, and gave the  
 King a Relation of what they had done, who, being very fond of a  
 Peace with France, was well satisfied with it.

*Froissart* further relates, that the English then insisted that the French *ibid.*  
 King should renounce *Clement* the *Avignon* Pope of *Avignon*; but the French  
 Commissioners would by no means agree to that, and resolve still to  
 continue under his obedience; and tho' this Pope died in September  
 following, yet that did not heal the Schisme in the Romish Church;  
 for the Cardinals of that Faction agreed to chuse Cardinal *Peter*, or  
 the Cardinal de *Luna*, who was lately Legate in France, to be Pope in his  
 stead, by the Title of *Benedict* the 13<sup>th</sup> in opposition to *Urban*, who  
 had been not long since elected at Rome by the Cardinals of the op-  
 posite Party; and thus the Schisme between the two Sees of Rome and  
*Avignon* was still kept on foot.

But to [1.] look to the Affairs of England, the Duke of Lancaster, [1.] The  
 upon his Return home from the Ambassy in France, found himself a Duke of Lan-  
 Widower by the late decease of his Dutchess *Constance* Daughter to cester returns  
 the King of Castile: as also the Lady *Mary*, Wife to the Earl of Derby out of France,  
 his Eldest Son, a little before departed this Life. having re-  
 new'd the

But [2.] what is most Remarkable, was the Decease of Queen *Anne*, The  
*Anne*, who, to the King's great grief, died this Year at His Mannor deaths of se-  
 of *Sheen*: Her Death was so deep an affliction to him, that he not veral Ladies.  
 only ever after hated the Place, but also defaced it, by pulling down [2.] T. W.  
 the Pinacles, and demolishing the Apartment where she died. She As also of the  
 had the Character of a Beautitul, Charitable and good humour'd Lady, Queen, with  
 but too much given to her Pleasures; of which she is said to have Re- her Character  
 pented on her death-Bed.

The King being now resolved to divert His Melancholy by War- *Id ib.*  
 like Exploits, hasten'd his Expedition into Ireland, to reduce certain The King ha-  
 Rebels who had now taken Arms; and in order thereunto, issued out stens His  
 a Proclamation to all Noblemen, and others, that any ways belonged Journey into  
 to that Kingdom, that they should by the beginning of September Ireland, and  
 return into their own Country, there to wait the King's coming over; issues out a  
 Proclamation  
 for all that be-  
 long to that  
 Kingdom, to  
 and return thither

*Anno Dom.* 1394. and indeed it was time to send them away, for such multitudes were now come hither in hopes of Preferments, that they had left the *English* Pale in *Ireland* almost quite desolate and unguarded; at which the natural wild *Irish*, not yet thoroughly subdued, taking Advantage, destroyed or pillaged at their pleasure the few remaining Subjects the King had there. And whereas King *Edward* the Third when He had settled His Courts of Justice in that Country, received from thence to his Exchequer above Thirty Thousand Pounds *per Annum*; This Kingdom, by reason of the want of Inhabitants, was not only lost, but on the contrary, the King forced to be out of Pocket Thirty Thousand Marks every Year, in the necessary defence of his Territories; which mischiefs effectually to Redrels, [1.] He about the beginning of *September*, set Sail for *Ireland*, attended by the Duke of *Gloucester*, the Earls of *Marche*, *Nottingham*, and *Rutland*, with a powerful Army of about Thirty Thousand Men. Upon his Landing at *Dublin*, the *Irish* unable to Cope with so great a Force, endeavour'd for a while to weary him out with Alarms, Ambuscades, and Skirmishes; but at last four of their Chief Princes or Kings were glad to submit to King *Richard*, some of whom He kept as Hostages for Security, others He dismissed upon Parole. This was the greatest and most fortunate Expedition that was made in this King's time.

[1.] *ib. id.*  
*Froiss.* Vol. IV.  
The King  
Sails over to  
*Ireland* with a  
great Army.

*Anno Dom.* 1395. This being the Eighteenth Year of our *Richard's* Reign, He kept His *Christmas* at *Dublin*, and presently after Summon'd a Parliament there, at which appear'd all those Feudatary *Irish* Lords and Princes, who had already submitted to Him, whom He endeavour'd to reduce to some Civility, of Habit and Manners. And [2.] *Froissart* tells us that the King made use of an *English* Gentleman for that purpose, who had been taken Prisoner, and had lived long among them; and whose Relation concerning the Manners and Habits of the *Irish*, the Reader may be inform'd from that Author.

[2.] *ib. id.*  
A Parliament  
held at *Dub-*  
*lin*, and ano-  
ther at *Lon-*  
*dun* at the  
same time,  
where the K.  
has an Aid  
given him by  
the Clergy,  
and Com-  
mons.

[3.] *ib. id.*  
*Roi. Clau.*  
18. *Rich.* 2.  
M. 23. *dors.*

In [3.] the mean while the Duke of *Tork*, who had been left Guardian of this Kingdom in the King's Absence, Summon'd a Parliament to Meet Fifteen Days after *St. Hilary*, or the Eight and Twentieth Day of *January*, to consider of the prosperous and happy Government of *Ireland*; and for the better Procurement thereof, the King now sent the Duke of *Gloucester* over, who declar'd before them all, the great necessity His Majesty was in for Money, occasion'd by His late Expedition into *Ireland*; and his Speech had so powerful an effect upon them, [4.] that the Clergy Granted the King a *Tenth*, and the Commons a *Fifteentb*, yet not without a *Protestation* first made, That they were not bound to Grant the same *de stricto jure*, but did it purely out of their affection to their King.

[4.] *Roi. Parl.*  
18 *Rich.* 2.  
m. 23. *dors.*

[5.] T. W.  
The *Wickliffes*  
or *Lollards* fix cer-  
tain Conclu-  
sions on the  
doors of *St.*  
*Paul's* Church,  
and also pre-  
sent them to  
the Parlia-  
ment.

[6.] *Histor.*  
*Ikona-Walsing.*  
M<sup>r</sup>. in *Bib.*  
d. 62.

During [5.] the King's Absence in *Ireland*, the *Wickliffes*, or *Lollards* (as they were then call'd) grew so bold, as Publickly to affix on the Doors of *St. Paul's* Church certain Accusations against the Clergy, Charging them with sundry Crimes; and [6.] they also Publish'd divers Conclusions against Ecclesiastical Persons, the Sacraments, and other Rites of the Church, which were also Propos'd in Parliament by Sir *Thomas Latimer*, and Sir *Richard Story*, with others, at which the Bishops were extremely disturbed; and according to their usual Method, instead of clearing themselves, and confuting their Advertaries by Scripture and Reason, endeavour'd to Silence them by



Force; and to this end, being now under a great Consternation, they Anno Domini. 1395.  
 dispatched away the Archbishop of York, and Bishop of London into Ireland, to the King, entreating Him to hasten His Return, to Defend and Succour the true Faith, and Holy Church, that were both like to be undone by the Hereticks, who were contriving how to take away the Possessions of the Church (that is of the Clergy), and overthrow all Canonical Sanctions.

The [1.] King was greatly Allarm'd with this News, and having appointed the Earl of Marche his Lieutenant of Ireland, made what hast He could over into England, where He safely arriv'd in the beginning of May; and so soon as He came over, fell severely upon some of the Nobility and Gentry, who were the Chief Favourers of these Lollards, making Sir Richard Story openly abjure their Opinions, and roundly told him, That if ever He found He relapsed again into them, he should suffer Death, without Mercy.

[1.] T. W. Upon which News, the K. immediately returns out of Ireland.

But it seems the Lollards were not at this time the only Depressers of the Clergy, but my [2.] Author also highly complains against some of the Heads of their own Body, for William Archbishop of Canterbury had now procured a Bull from the Pope, Impowering him to Levy throughout all the Diocesses of his Province, Four Pence in the Pound of all Ecclesiastical Goods and Revenues, as well of those Exempt, as not Exempt, and this without so much as pretending any good or Lawful Cause for the same. However, the Execution of this Bull being committed unto the Archbishop of York, and the Bishop of London, tho' many of the Inferior Clergy grumbled at it, and complain'd thereof as an unreasonable Burthen, yet they were forc'd to submit, and pay their Money.

[2.] Id ib. The great oppression of the Archbishop of Canterbury, upon the Clergy.

I cannot here pass over a Matter, which tho' of no Publick Concern, yet it will give us an Account of the uncertain Fate of so great a Prodigy of Fortune. [3.] Robert de Vere, late Earl of Oxford, and Duke of Ireland, having escaped beyond Sea (as you have already heard) being Attainted by Act of Parliament, deceased about Three Years since at Louvain, in great Melancholy and Discontent, the King being either unable or unwilling to relieve him. But now, to make some amends to his Memory, He order'd his Body to be Embalm'd, and brought into [4.] England in a Coffin of Cypress, and carried to the Priory of Colne in Essex, where a Sumptuous Funeral was made for it; the King in Person, Attended by the Archbishop of Canterbury, and the Countess Dowager of Oxford, Mother to the deceased, being the Chief Mourners; together with several Bishops, and Religious Men, but by very few of the Nobility, for they had not yet digested their Resentments against him.

[3.] Id ib. The death of Robert de Vere Duke of Ireland.

[4.] His Body is brought over, and sumptuously Buried at Colne in Essex.

I shall conclude this Year with some Foreign Affairs of Moment; [5.] Froissart the Historian now coming into England to wait upon King Richard, and to Visit a Country with which he had been many Years ago well acquainted, tells us that he found then certain Deputies at Court, which had been sent over from the Chief Towns of Gascoigne to the King, Praying that the Donation made to the Duke of Lancaster of the Dutchy of Aquitain might be recalled, since they would by no means be separated from the Crown of England, on which they chiefly depended for Assistance and Protection against the French. Upon this, the King Assembled a Great Council of all His Nobility,

[5] Vol. IV. ca. 61, 62. Froissart comes over into England: The Deputies of Gascoigne desire the Duke of Lancaster's Donation might be recalled.



*Anno Dom.* Nobility, on the Twentieth Day of July, at His Mannor of *Eltham*,  
 1395. where the Dukes of *Tork*, and *Gloucester*, the Archbishops of *Can-*  
*terbury* and *Tork*, with other Bishops; the Earls of *Derby*, *Arundel*,  
*Kent*, and *Northumberland*, with several other Lords, being all Met,  
 it was Debated what Answer should be given to the *Gascoigne* Deputies.  
 The Earl of *Derby*, the Duke's Son, and some other Lords were for grant-  
 ing their Request; but because the Duke of *Gloucester*, being more de-  
 sirous of his Brother of *Lancaster's* Absence, than Presence here, insisted  
 that the Donation ought to hold good, there could be nothing further  
 done in it, 'till the Duke's Pleasure was known, and that he could re-  
 turn again to *England*, of which I shall tell you further in due time;  
 but we shall now go back to the Affairs of *France*.

[1.] *ib. C. 62.*  
 Another Am-  
 bassie order'd  
 into *France*,  
 about a Match  
 with that K's  
 Daughter.

[2.] *ib. Cap.*  
 63.  
 The French  
 King's An-  
 swer to that  
 Proposal.

In [1.] the same Council it was also Resolv'd, that the Earl of  
*Rutland*, (Eldest Son to the Duke of *Tork*) the Archbishop of *Dublin*,  
 the Bishop of *Ely*, the Lords *Clifford*, *Beaumont*, and *Spenser*, should  
 be sent Ambassadors into *France*, to Treat of a Marriage between the  
 King, and the Lady *Isabel*, Daughter to the King of *France*, she being  
 then but between Seven and Eight Years of Age. These Commission-  
 ers being Arriv'd there, were very well receiv'd; [2.] but the *French*  
 King's Answer was, *That He thank'd His Brother of England for His*  
*good will, yet besides that the Lady was too young to Marry, there was an*  
*Agreement between Himself and the Duke of Bretaine, that he should*  
*Marry her; and therefore this Affair could not proceed further as yet,*  
*'till the former Agreement was dissolved;* whereupon the Ambassadors  
 return'd home, and gave the King an Account of it, who still con-  
 tinued very fond of this Alliance with *France*; but before the end of  
 this Year, the *French* King sent into *England* as His Ambassador, a  
 Norman Gentleman called *Robert the Hermite*, who pretended that he  
 was order'd by a Vision, and a Voice in his Voyage from the *Holy-*  
*Land*, that he should warn the King's of *England* and *France* to make  
 Peace. He being Arrived, the Treaty of Marriage was again renew'd,  
 and the Ambassadors declar'd their Master's content to it; but these  
 things could not be finally agreed on 'till the beginning of the next  
 Year, by reason of the great difficulties and opposition that the Duke of  
*Gloucester* made in this Treaty; 'till at last the King inclining more to  
 the Advice of His Uncles of *Lancaster* and *Tork*, resolv'd to conclude  
 the Marriage with the Daughter of *France*, notwithstanding all the  
 opposition that was made to the contrary.

To this end, [3.] in the beginning of this Year, the King sent the  
*Anno Dom.* Earl of *Rutland*, and *Nottingham*, the Lord *Scrope*, and some Bishops,  
 1396. His Ambassadors to *Paris*, with a full Commission to conclude the

[3.] *Erois. ib.*  
*Cap. 64. Rot.*  
*Franc. 19 Rich.*  
 2. m. 19.

Treaties of Peace, and Marriage above-mention'd; but not being  
 able to make up an Absolute and Final Peace, they Treated with  
 the Dukes of *Burgundy*, *Berry*, and *Orleans*, Commissioners from the  
*French* King, concerning the Continuation of a General Truce for both  
 Kings, and their Confederates, which was at last Concluded on these  
 Conditions: That when the Truce lately made at *Leulingham* should  
 expire, in the Year 1398, it should be again continued for Twenty  
 Eight Years longer. But we have a more exact Account of the Arti-  
 cles of this Truce from the Original Instrument, under the Seal of the  
 King of *France*, preserv'd in the Chapter House at *Westminster*; by  
 Vol. III. which



which it is expressly Provided, that, during the said Truce, the taking of Prisoners, Goods and Chattels, Fortify'd Towns, Fortresses, and other Places, together with all Pillages, Robberies, Burnings, Demolishing Houses, &c. and all other Acts of War, were to cease between the two Kingdoms, their Lands and Seigniories on both sides; as also between the Kingdoms, Lands, Seigniories, and Subjects of their Friends, Allies, and Adherents whatsoever; and that there should be freedom of Intercourse, Commerce and Merchandizing between the People and Subjects of one Party and the other, during the said Term. In this Truce there is not any mention of any Homage, Liege-Sovereignty or Ressort reserv'd to the *French King*. This Treaty, or Agreement was Ratified by the King of *France*, on the Eleventh of *March* this Year; and not long after by the King of *England*, and the Ratifications were exchanged on both sides, on the Feast of *St. Simon and Jude*, when both King's Swore to the Performance of them, as you will find hereafter.

All things being thus Concluded; the [1.] Earl of *Nottingham*, [1.] *Froiss. ib.* Lord Marshal, espoused the young Princess *Isabel*, by Vertue of certain Letters of Procuracion he had brought over for that Purpose, on the behalf of his Master King *Richard*, and thereupon she was immediately stil'd Queen of *England*, and so the Ambassadors return'd home, and found the King and His Uncles, except the Duke of *Gloucester*, (who remain'd still averie to it) very well satisfied with their Proceedings; but for all this, the *French King* would not trust his Daughter to come over into *England*, 'till the Princes of the Blood Royal, viz. the Duke of *Lancaster*, and his two Brothers of *York*, and *Gloucester*, as also the Earls of *Derby*, *Warwick*, and *Nottingham*, with some others of the Chief Noblemen of the Kingdom, had Seal'd an [2.] Instrument, [2.] It is Printed in *Leibnitz, Codex Diplomati. p.* whereby they promis'd and engag'd, that if after the Consummation of the Marriage, the Lady *Isabel* of *France* should happen to survive the King, they would no ways hinder her return Home with all her Jewels, and other Moveables. This was Dated at *Windfor*, the first of *May*, not long after the return of the said Ambassadors.

I must here insert a Remarkable Transaction, which should have been mention'd in the beginning of this Year, when indeed it happen'd, but that I would not break into the Relation of the late Truce. [3.] [3.] T. W. The Duke of *Lancaster* being sent for over from *Gascogne* about *Christmas*, immediately waited on the King, who kept that Festival at *Eltham*; where being receiv'd with more Honour than Affection, he gave the King his positive Resolutions concerning that Province; that since the People were not willing to accept him for their Priace, and that it was not to be maintain'd against the *French King*, by his own Power and Revenues, he was therefore willing to comply with the Peoples Desires, as well as His Majestie's Commands, and resign his Title to the Dutchy of *Aquitain* into His Majesty's Hands. But within a while, looking upon himself slighted at Court, he took his leave, and retir'd to the City of *Lincoln*, where he presently after Married the Lady *Catharine Swinford*, Widow to Sir *Robert Swinford*, his old Mistress, by whom he had already had several Children; tho' he had hitherto kept her under the Title of Governess to those he had by his deceased Lady; but this Match very much discontented his Brother the

Anno Dom. 1396. Duke of Gloucester and his Dutcheſs, who looked upon it as a diſparagement to the Royal Family.

Nothing happened conſiderable all this Summer, after the concluſion of the Peace with *France*, the Kings time being almoſt wholly taken up in raiſing Money, and making great Preparations for his intended Mariage and Voyage into *France*: And then about the middle of *October*, all things being now ready, the King went down to *Dover*, and paſſed over to *Calais* with his Uncles, and a magnificent Retinue; and when He had repoſed Himſelf a few days, He went to meet the *French King*, who was come to *Ardres* for the like Purpoſe; between which Town, and *Calais*, a place was appointed for their Interview, where two ſtately Pavilions were erected for their Reception. But firſt both Princes took an Oath, truly and Religiouſly to obſerve the ſtrict Laws of Amity during this Congreſs; and that neither by themſelves, nor any of their Subjects, Friends, Allies, nor any other, to their Privy, nor with their Allowance, there ſhould be continued or practiſed any Hoſtility, Surpriſe, Damage, or Diſturbance by either Party to the other. And for their further ſecurity, the Space between the two Royal Tents was Guarded on each ſide by eight hundred armed Knights, or Gentlemen, four hundred of each Nation, who being drawn up in two Lines, the Kings of *England* and *France*, having Met and Saluted each other, paſſed between them to King *Richard's* Pavilion, on the twenty ſeventh of *October* attended by the Princes of the Blood, on both ſides; four of the *French Duke's* being order'd to wait upon the King of *England*; and the Dukes of *Lancaster* and *Gloucester*, beſides three Earls, viz. of *Derby*, *Rutland* and *Northampton*, at the ſame time attending the *French King*.

The Enter-  
view between  
the two  
Kings.

Then [ 2 ] after a mutual exchange of Compliments between their Maſteſties, it was alſo agreed, that a Chappel at both their Charges, ſhould be erected in the place of their Interview, which ſhould be call'd the Chappel of our Lady of Peace; and on *Saturday*, the Feaſt of *St. Simon* and *Jude*, on another Treatie it was alſo further agreed and Solemnly Sworn to by both Kings, that the former Truce and Ceſſation of Armes for eight and twenty Years, ſhould be prolonged to thirty Years to come. But the Chief Bond of their Peace and Agreement was, that King *Richard* was now to Marry the *French King's* Daughter, and the former having Invited the latter to Dine with Him at his Pavilion, the day [ 3 ] following, being *Monday*, He was magnificently Treated and took the upper hand of the King: after Dinner the young Queen being brought thither was delivered to King *Richard* by the King her Father, and was then committed to the Care of the Dutcheſſes of *Lancaster* and *Gloucester*, who convey'd Her with a Noble Retinue to *Calais*; then after theſe two great Princes had taken their leaves of each other, with all the tokens of Reſpect and Amity, King *Charles* went back to *Ardres*, and King *Richard* to *Calais*, who from thence paſſed over [ 4. ] into *England* with his young Bride in great State and Magnificence. And my Author further tells us, that beſides, the Preſents made by King *Richard* to the *French King* and his Nobles, amount- ed to the value of three hundred thouſand Marks, which was much more than all the Portion He received with Her.

[ 3. ] The  
Marriage con-  
cluded be-  
tween King  
*Richard*, and  
the Daughter  
of *France*, who  
is deliver'd to  
him.

[ 4. ] The  
two Kings  
take leave,  
and return  
home.



The King being safely Landed at *Dover* with his young Spouse *Anne Dom.*  
 (tho' He lost His Tents, and much of His Equipage in the passage) 1396.  
 came to *London* on the 23<sup>d</sup> of *November*, where the Crowd was so  
 great, at the end of *London-Bridge*, that many were stifled to death; *Id. ib.*  
 and immediately after their Arrival, the young Princess was Crown'd *The King ar-*  
 Queen at *Westminster*, by the Archbishop of *Canterbury*, with all the *rives in Eng-*  
 Solemnity that had been usual on such Occasions. But it seems the *land.*  
 Duke of *Gloucester* was not at all satisfied either with the Truce, or the *Chron. de*  
 Match, saying, *That it had been more proper to recover by Arms what* *Lambeth.*  
*the King's Father and Grandfather had lost in France, than to enter* *The Queen*  
*into new Alliances with that Crown, which had commonly better Success in* *Crown'd.*  
*Treaties than Wars with England:* And these private Discontents drew *The Duke of*  
 on His Ruin, which happen'd some time after. *Gloucester is*  
*discontented*  
*at the Match,*  
*and Truce.*

But [1.] tho' I do not give any great Credit to a Story in *Grafton's* [1] *Grafton's*  
*Chronicle*, concerning this Duke, yet being to the Matter in hand, I *Chron.*  
 shall here insert what is related to have pass'd between the King and *Ad hunc An.*  
 him. About this time *Brest* being deliver'd to the Duke of *Bretagne*, *What pass'd*  
 the King observing a mighty number of mean sort of Fellows that had *between the*  
 Crowded into *Westminster-Hall*, at a great Feast, asked the Duke of *King and the*  
*Gloucester* who they were? he Reply'd, *They are, Sir, the Soldiers,* *Duke, about*  
*who by your Surrendring of Brest, are sent Home, and must now either* *the Delivery*  
*Steal, or Starve;* and so went on to Tax the King as guilty of a rash *of Brest.*  
 and unadvised Action. Hereupon in great Anger, He asked His  
 Uncle whether he took Him for a Merchant, or a Fool, to sell His Castles  
 for Money? and said further, *How could I refuse to Surrender that Town,*  
*when I was tender'd the Sum lent upon it?* But all this sounds impro-  
 bable, since [2.] *Froissart* relates, that both this Castle, and that of [2] *ib. C. 83.*  
*Gherburgh* in *Normandy*, were given up by the Duke's Consent, *Yet it seems*  
 who was appointed one of the Commissioners for the Treaty, upon *to be a false*  
 which it was deliver'd. And the same Author further says, that the *Story.*  
 Duke of *Gloucester* was now so far gain'd by the King's Presents to  
 him, and Promises to make his Eldest Son *Edmund* an Earl, that he  
 seem'd at first very well satisfied with the late Peace, and carried him-  
 self very civilly to the *French* Princes at the late Enterview, and Mar-  
 riage; and therefore it is not likely he should so soon exclaim against  
 what he himself had so lately agreed to, and approved of.

To [3.] conclude the Year with some Ecclesiastical Affairs; the [3.] *T. W.*  
 Pope the last Summer wrote the King a very pressing Letter, intreat- *The Pope*  
 ing Him to assist the Prelates of the Church in the Cause of God, as *Writes to the*  
 also for the Peace of His own Kingdom, against the *Lollards*, whom *King about*  
 he declared to be false and unfaithful both to the Church, and King *the Lollards.*  
 Himself; and therefore earnestly pressed him, that whatsoever Per-  
 sons the Bishops should declare to be Hereticks, He would forthwith  
 cause to be Executed by His Royal Authority. But the King's  
 thoughts being then taken up with His intended Voyage into *France*,  
 I do not find there was any thing further done in it. [4.] And be- [4] *Id. ib.*  
 sides, perhaps the Sickness and Death of *William Courtney*, Archbishop *Vid. Ang. Sacra*  
 of *Canterbury*, who deceased about the latter end of *July*, might put *i Vol. p. 121.*  
 some stop to those Proceedings. But thereupon the Monks of *Canter-*  
*bury*, not long after, Elected *Thomas Fitz-Alan* (commonly call'd *A-*  
*rundel*, because he was younger Brother to that Earl) to be Archbishop, *shop of Can-*  
 Vol. III. H h h h h h 2 he *terbury.*

he being then Archbishop of *Tork*, and Lord Chancellor. But upon his Confirmation by the Pope in this New Dignity, he deliver'd up the Great Seal to the King, which He immediately bestow'd upon Mr. *Edmund Stafford*, a Clergy-Man, of a Noble Family.

*Anno Dom.*  
1397.

*Reg. Parl.* 20.  
*Rich.* 2. part I.  
*M.* 27. dors.

This Year being the Twentieth of the King's Reign, begins with a Parliament; which by Writs bearing Date the Thirtieth of *November* last, was to be holden on the Feast of *St. Vincent*, or Twenty second of *January*; which being Assembled accordingly, the first thing that occurs upon the Roll is, that the Commons fram'd certain Articles into a Bill, the intent of which was to Regulate the extravagant Expences of the King's Household, and to forbid Bishops and Ladies that had no particular Business there, from frequenting the Court. What was the Occasion of inserting this Clause into this Bill, I cannot tell; only the Design of it seems to have been, to keep the Bishops to Residence at their own Diocesses, and not to come to Court only to seek new Advancements; as also the Ladies from coming to a Place, where they might either tempt others, or themselves be liable of too much temptation. But the King being inform'd of the Contents of this Bill, was much incens'd, and thereupon told the Peers, That they were against those Royalties and Liberties His Progenitors had enjoy'd, and which He was resolv'd to uphold, and maintain; and therefore Commanded the Lords Spiritual and Temporal to let the Commons know it: And further Order'd the Duke of *Lancaster* to Charge Sir *John Bussy* the Speaker, upon his Allegiance, to tell Him who brought in the said Bill; for that which chiefly provok'd the King, was, that it design'd to Regulate the Expences of His Household, which was then very disorderly.

[1.] *ib. N.* 16.  
The Commons make their Excuse and Submission to the King, and the Form of it.  
*Thomas Haxey* Clerk, is Accus'd for bringing in the said Bill.

The [1.] Commons made their Excuse and Submission to the King in manner following. On *Saturday*, the Morrow of the Feast of *Candlemas*, the Lords Spiritual and Temporal had a Conference with the Commons, and shew'd them the Will and Command of the King, and then they deliver'd in the Bill to the Lords, with the Name of him that brought it to them, to wit, *Thomas Haxey* Clerk; which Bill was afterwards deliver'd to the Clerk of the Crown, by the Clerk of the Parliaments, according to the King's Command; and presently after the Commons came before the King in Parliament, and there, with all the Humility and Obedience they could, shew'd great grief for that the King had taken such a Resentment against them, humbly praying Him to hear and accept their Excuse, For that it never was their intent or will to speak, shew, or do any thing which should be an Offence or Displeasure to His Majesty, nor against His Royal Estate or Liberty, and especially about this Matter touching His Person, and the Government of His House, or about the Lords and Ladies of His Court, nor of any other Matter that touch'd Himself, knowing well that such things do not belong to them, but solely to the King Himself, and His Ordering; and that their Intention was for the great Affection they bare to Him, as faithful Lieges; that the Lords might pray the King to consider His Honourable Estate, and do concerning it what He pleased. And upon this, the Commons submitted themselves to the King's Will and Favour, humbly praying His Majesty to have them graciously excus'd, being always ready to save His Royal Estate and Liberty, and to perform

Vol. III. with



with Body and Goods, as Loyal Lieges are bound, what shall be for the Honour and Safety of His Royal Majesty.

1397.

Whereupon the Chancellor, by Command of the King, told the Commons, that upon His Royal Benignity, and Gracious Seigniority, He had then fully excused them.

On [1.] Wednesday after Candlemas, Thomas Haxey Clerk, was in Parliament Condemn'd to die as a Traytor; yet soon after his Sentence, the Archbishop of Canterbury, and all the other Prelates came before the King in Parliament, with great humility, and made Protestation, that their entire and full Intention was, and always should be, that His Royal Estate and Power should be always saved and preserved without diminution. [2.] And then they pray'd the King to grant them the Life of Thomas Haxey, and the Custody of his Body, not as of Right belonging to them, but of His Special Grace; both which the King Granted.

[1.] *ib.* Thomas Haxey is Condemn'd as a Traytor for bringing in the said Bill.

[2.] Yet upon the Intercession of the Prelates, his Life is spared.

Then [3.] the King, by Assent of the Lords Spiritual and Temporal, and the Commons, of His Special Grace, also granted to Robert Belknap, John Holt, and William Burgh, Knights, who had been Banished into Ireland, that they might return into England, and Practice Law, without Impeachment, notwithstanding the Statute made in the Eleventh Year of that King's Reign; saving always against them all the other Points contain'd in the said Statute.

[3.] *ib.* Robert Belknap, and the rest of the late Judges that had been sent into Ireland, have leave to return, and Practice the Law.

Thus the King having gain'd a Parliament to His Mind, now got to be Reversed what had been done in a former Parliament Nine Years ago; so uncertain things have Parliaments been, when Managed either by Court-Intrigues, or Popular Factions. In this Parliament there [4.] was granted to the King by the Clergy half a Tenth; and the Commons, with the Assent of the Lords Spiritual and Temporal, also granted Him Twelvepence in the Pound of all Merchandise Imported, and Three Shillings per Pound for every Tun of Wine, for Three Years.

[4] *Rot. Parl.* 21 *Rich.* 2. The Clergy grant the K. half a Tenth, and the Commons 12d. per pound on all Merchandise.

Having [5.] given you all that is considerable concerning this Parliament, I shall now add some other Matters of less moment, viz. That the Duke of Lancaster procured the Issue he had before Mariage begot on the Lady Katherine Swynford, to be Legitimated, and made capable to Succeed to and Enjoy all Dignities, Lands and Inheritances that might descend from the Duke their Father; but the Crown is not mention'd in it, as appears by the Charter of Legitimation, confirm'd by an Act un-printed, which yet remains upon [6.] Record. The King also at the same time, out of His particular Grace and Favour, confirmed by the same Parliament, Created Thomas de Beaufort, Eldest of the said Duke's base Sons, Earl of Somerset, from whom the present Duke of Beaufort is descended, by a Natural Son of John the second Earl of Somerset. By all which Proceedings, it appears, that notwithstanding all the Secret Intrigues of the Anti-Court Party, the King had now so well satisfied the greater part of the Nobility, and had so over-awed the House of Commons, that they wholly submitted themselves to His good Will and Pleasure, and granted Him whatever He demanded of them.

[5.] *T. W.* Ad hunc An. The Children by Catherine Swynford Legitimated in Parliament: The Eldest of them is made Earl of Somerset.

[6.] *Rot. Parl.* 20. *Rich.* 2. N. 28, 29.

But all this did not satisfy the King's Occasions; [7.] for upon certain idle Reports spread abroad on purpose, that He either was now, or else very shortly to be chosen Emperor, He thereupon began to

take

*Anno Dom.* take upon Him greater State, and a higher way of Living than ever  
 1397. before ; to maintain which, He Fleec'd His Subjects, and Borrow'd al-  
 The King al- most of every body great Sums of Money ; so that there was no Pre-  
 borrows great late, Man of Qualiry, or Citizen of any Estate in the whole Kingdom,  
 Sums of all but who were forced to lend the King Money out of their own private  
 sorts of Men, Purfes, tho' much against their wills; which was one of the main Reasons  
 which He ne- of turning the Trading part of the Nation against Him.  
 ver paid.

[1.] *Id. ib.* When [1.] the King had thus far compassed His Designs, He was  
 The King re- resolv'd to go thro' with them, and to take off all thole that either  
 solves to take off all those had, or might oppose Him.  
 who might oppose Him.

[2.] The King And [2.] seeing His Uncle the Duke of *Gloucester* stood most in His  
 resolves to way, He designed to begin with him, and destroy him first, not  
 begin with by Law, but by secret Violence, and Treachery. What moved the  
 the Duke of King to act thus Arbitrarily, is variously Reported. [3.] *Froissart*,  
*Gloucester.* and [4] *Polydore Virgil* relate, with some probability, that the Duke  
 [3.] *Lib. IV.* carrying himself with too great Pride and Morosity towards the King,  
*Cap. 103.* He sometimes [5.] complain'd to His two Uncles, the Dukes of  
 [4.] *Lib. 20.* *Lancaster*, and *Tork*, of their Brother the Duke of *Gloucester's* haughty  
 [5.] The K. and disobliging Carriage towards Him. They, who endeavour'd to ex-  
 complains to cuse him, and to pacifie the King, alledged, that their Brother indeed,  
 the Dukes of was more hot and vehement than became him, but they durst as-  
*Lancaster* and sure His Majesty that his Heart was Dutiful and Loyal, and that this  
*Tork*, of their vehemency proceeded from a Zealous regard, lest His Majesty and  
 Brother's Kingdom should suffer, either in Honour, or Revenue: and there-  
 carriage to- fore He had no Cause, to be afraid of him; with which the King  
 wards Him. seem'd to be satisfied for the present. But however, these Dukes not  
 knowing how they might be involv'd in that displeasure, which they  
 still perceiv'd He retain'd against their Brother, thought fit for avoiding  
 the worst, to retire from Court, thereby giving the Duke of *Gloucester's*  
 Enemies the greater Opportunities to incense the King against  
 him.

[6.] T. W. But [6.] that which was suppos'd much to promote the Duke of  
*Ad hunc An.* *Gloucester's* destruction, was, that some time before, the Earl of *St. Paul*  
 The Conver- having been sent over Ambassador from *France*, to the King and Queen,  
 sation between the Earl of to Congratulate Her Mariage, and Coronation; the King took an  
 S. Paul, and Opportunity, being alone with him, to make great Complaints of the  
 the King, con- Duke of *Gloucester*, as that he had been very earnest with Him to break  
 cerning the Duke of *Glou-* the Truce with *France*, and renew the War with that King; and when  
 ceester, and E. he found he could not obtain that, he had made it his Business to stir  
 of *Arundel.* up the People to Sedition, and to raise a Civil War at Home, since he  
 could not make one Abroad. He likewise related, how that some  
 Ten Years since, he had rais'd such a Faction against Him, that he  
 caused divers of His faithful Friends and servants to be put to death,  
 against His Will, and did still contrive his destruction. To which  
 Discourse, the Earl presently answer'd; That he thought such great In-  
 juries were no longer to be endur'd, but ought speedily to be reveng'd,  
 and the Mischief to be prevented before it was too late. From this  
 time forward, King *Richard* resolv'd to destroy the Duke of *Gloucester*,  
 and Earl of *Arundel*, who had been Partner in all his Designs; and He  
 only waited for a fit Opportunity to put what He had resolv'd  
 in Execution. [7] *Froissart* relates this Conversation much to the  
 Vol. III. same



same effect ; but lays the time of it not after, but a little before the King's Mariage, when he also came over Ambassador into Eng-  
*land.* *Anno Dom. 1397.*

But [1.] since this Author who lived at that very time, has laid several strange Plots and Conspiracies against the King to this Duke's Charge, I shall from him give a brief Account of them, and leave them to the Reader's Judgment to consider how far he was guilty of them. This Author relates, that the Duke had much displeas'd the King by his sharp and undutiful Speeches, tho' His Majesty still endeavour'd to oblige him, by all the Favours He could heap upon him ; so that he proceeded not only to secret Caballs, but open Conspiracies. And to this end, so soon as the Peace was made, those Subsidies and Aids, which had been granted and agreed to in Parliament for Twenty years, being still paid, he began again Artificially to insinuate into the Citizens of *London*, that the War with *France* being now ended, they ought to be exempt from those Taxes which had been laid during the War, and for which, the Court could not without Injustice deny them some Redress. In short, he pushed the Business so far, that the City deputed certain Persons to the King, to desire Him to be discharged from them ; wherefore it behoved the King and His Council to avoid this Mischief ; to shew them the King's great Necessities, and more than Ordinary Occasion for Money, and how much more gently they were Taxed, than the People of other Countries ; and the Duke of *Lancaster* was also by gentle words, fain to shew them the unreasonableness of that Request ; so that when the Duke of *Gloucester* saw his design did not take effect, he went down to his House at *Pleshey*, there to consider how to raise fresh disturbances.

But [2.] this Accusation seems very improbable ; for besides that it is but the same which this Author hath laid to his Charge ten Years before, and it is not likely he should play the same Game over again ; neither were the City of *London*, or any other Trading Towns in *England* then burthen'd with any other Taxes, than those Duties granted upon *Wines*, *Wools*, and other Commodities, which the Buyers paid, and not the Merchants.

The next Point, which this [3.] Author lays to the Duke's Charge is, that upon the Arrival of the Earl of *St. Paul* as Ambassador from *France*, the Duke caused a Rumour to be spread all over *England*, that this Nobleman was come over to Treat with the King concerning the Surrender of *Calais* ; upon which the Duke incited another Deputation, to be sent up, not only from *London*, but many other Towns of the Kingdom, to joyn with him to know of the King whether it were true, or not ; and to Request Him not to enter into any such Treaty. This also seems a false Report, for none of our Historians mention any such thing ; tho' it is certain, the King would have made such an Agreement for the delivery of *Calais* to the *French* King nine Years before, provided He would or could have assisted Him against the Duke of *Gloucester*, and the rest of the Confederate Lords.

The [4.] next thing laid to this Duke's Charge, is, that upon a pretence of the King's Evil Government, he proposed to *Roger Mortimer* Earl of *Marche*, (Right Heir to the Crown, if the King should die without Issue) that in case he would joyn with and follow his Direction, he would place him immediately upon the Throne. But the

[1.] *Froiss. ib.*  
*Froissart's Account of the Plots laid to the Duke of Gloucester.*

[2.] The Accusations against him consider'd.

[3.] *Id. ib.*

[4.] *Froiss. ib.*  
*Froissart's Account of the Duke of Gloucester's Proposal to the Earl of Marche.*

*Anno Dom.* 1397. Earl being a Man of a Peaceable and Timorous Temper, utterly refus'd it; and that the horror He conceiv'd for this Traiterous Proposition, made him by his Uncle, was the Cause he retir'd into *Wales*, and utterly declin'd all further Correspondence with Him. And that when the Duke saw himself thus disappointed of his Hopes, he again renew'd his former designs, of privately exciting some of the Great Men, and Commons, against the King, as one wholly uncapable to Govern; and that he enter'd into a fresh Conspiracy against Him, with the Earl of *Arundel*, and *Warwick*.

[1.] *Ad hunc An.*  
*Fabian's* Account of the Crimes laid to the charge of the Archbishop, Duke of *Gloucester*, and Earls of *Arundel*, and *Warwick*.

[1.] *Fabian* in his Chronicle, relates this Conspiracy very differently from the former, that about this time the Duke of *Gloucester* had held a secret Council with the Archbishop of *Canterbury* and Earls of *Arundel*, *Warwick* and others at *Arundel* Castle, where after an Oath of Secrecy taken, they resolv'd to raise a sufficient Power to remove the Dukes of *Lancaster* and *Tork*, (who were now both come over to the King's Party) from his Council and Presence, as likewise divers other Councillors and Favourites; and when they had got a Parliament to their Minds, therein to make a thorough Reformation after their own way; the others mention a much worse design these Lords had, of imprisoning the King and the above mentioned Dukes, and putting divers of his Privy Council to death, which is very unlikely.

From whence these Authors received these Informations I cannot tell, for none of our Historians at that time (except *Froissart* who was a Foreigner) mentions any such Conspiracy; and as for what He relates, it is very Strange (had it been true) that the Earl of *Marche*, who alone could make this Discovery of what in private pass'd between the Duke his Uncle and himself, should not have impeach'd him of it, neither in the great Council at *Nottingham*, nor in the following Parliament; whereas nothing appears to be then laid to his charge, or to the Earls above mention'd; then the old business of their appearing in Arms at *Haringay-Park*, as hath been already related.

[2.] The whispers of the Earl of *Huntington* accelerate the Duke's ruin.

But *Froissart* I believe is so far in the right, that nothing more accelerated the Ruin of this unfortunate Prince, than the constant Whispers of *John Holland* [2.] Earl of *Huntington*, the King's half Brother, who either by reason of the Personal Enmity he had long born to him, or out of real Love and Concern for the King's Person, often told Him, that the Duke was hatching a Conspiracy to depose Him; to which may be also added, that certain young Councillors about the King, fearing to be call'd to an Account, and lose their Heads, as *Sir Simon Burley* and others had remonstrated to Him, that his Uncle the Duke of *Gloucester* had Spread abroad certain Rumors that the King having seemingly submitted Himself to the *French* by the late Truce and Mariage, was not fit any longer to wear the Crown, and that it was much to be fear'd, lest the Duke, joyning with the *Londoners* and other Male-Contents in *England*, should not one time or other depose Him.

[3.] The King consults with His Confidants how to destroy the Duke.

Whither these Suspicions had any real grounds or not, it is sufficient, that they put the King under such great apprehensions, that He consulted with those Noblemen in whom He put most confidence, how to prevent those designs which He suppos'd to be formed against Him. And to this end, [3.] He asked the Advice and Assistance of the Earl of *Nottingham*, Lord Marshal, who secretly hating the Duke, help'd the King



King how to lay a Plot to surprize and apprehend him, which was thus executed. Anno Dom. 1397.

The [1.] Duke being now return'd to his Mannor of *Pleshy* (as hath been already related) the King went after dinner from a Hunting Seat, called *Havering the Bower*, and came one Summers Evening about five of the Clock to the Duke's House, as if it were to give him a Visit, where He was receiv'd by him and his Dutcheffs, with all due honour and respect, the Duke presently order'd supper to be got ready for the King, but when He had eaten a little, He Commanded the Duke to order some of his Horses to be Sadled, to bear Him Company that night to *London*, for that he himself with his two other Uncles, were to hold a Council the next day, in which He desired his Advice, what answer to give the *Londoners* to a certain Petition they had offered to Him, Upon this the Duke, not taking more then five or Six Attendants; (as not at all suspecting the King's Design laid against him) presently mounted and accompanied Him towards *London*, who, under pretence of avoiding the beaten Rode, because of the Dust, left the Towns, and went about by the Forest of *Epping*, still talking familiarly with the Duke, as they rode along; but when they came near *Stratford*, where there was an Ambush laid to apprehend him) the King on the sudden took occasion to clap Spurs to His Horse, and Ride away from him, as fast as He could, the Duke followed him, but presently the Earl of *Nottingham* (then Marshal) with a great number of Horsemen sallying out upon him, Arrested him in the King's Name: So soon as the Duke saw he was betray'd, he called after the King; but it was then to no purpose, for they hurried him away to a Barge which convey'd him on Board a Ship, that was ready in the River for that purpose; and the Lord Marshal conveyed him to *Calais*, where he was kept Close Prisoner, till he was made away not long after, of which you will hear more in due time.

The [2.] King being now resolved to go thro' with his intended designs, proceeded much after the same manner with the rest of the Lords and Gentlemen, who were of the Duke's Party; and to this End He sent for the Earls of *Warwick* and *Arundel* to Court, and at first gave them fair words, and Gracious Promises; but in their return home they were Arrested for Treason, and sent to the Tower, as were also, not long after the Lord *Cobham*, and Sr. *John Cheyney*, with several other Gentlemen, who had bin of the same Faction. The Nobility, as well as the Common People being much disturbed at these violent and Arbitrary proceedings, the [3.] King to quiet their minds issued out a Declaration, wherein He sat forth, that the Lords lately apprehended were not thus dealt with for any former Offences, but for certain new Treasons by them Committed, which should be made out in due time; tho' I do not find they ever were, for I shall here set down all that remains upon [4.] Record relating to this Subject; whereby it appears, that the King, the better to satisfie the People's minds and strengthen his Party amongst the Nobility, thought fit to call a great Council of Peers at *Nottingham*, on the first of *August*, where certain Earls and Barons of the King's Party undertook to accuse the Duke of *Gloucester*, and the two other Earls above mention'd of High Treason; the Proceedings against whom I shall here insert from the Rolls, as they are abridged by [5.] Dr. *Brady* in his last Volume, tho' he hath by mistake

[1.] *Id. lib. 2. c. 2.*  
manne. of  
pur in that  
Duke in  
Execution.

[2.] T. W.  
*Ad hunc An.*  
The Earls of  
*Arundel* and  
*Warwick*, and  
others, Ar-  
rested for  
Treason.

[3.] The K.  
issues out a  
Declaration  
of the Justice  
of this late  
Proceedings.

[4.] *Placit.*  
*Roll. 21.*  
*Reg. 2.*  
A Council of  
Lords sum-  
mon'd to ap-  
pear at *Not-*  
*tingham.*

[5.] P. 405.

Anno Dom. 1397. stake misplaced them after the Parliament at *Shrewsbury*, which was held the Year ensuing. The Record or Appeal of Treason begins thus.

[1.] *ib. id.*  
The Proceedings of the great Council at *Nottingham*.

On [1.] the first day of *August*, this Year at *Nottingham*, before the King, sitting with His Crown on His Head in the great Hall of the Castle there, *Edward* Earl of *Rutland*, *Thomas* Earl of *Kent*, *John* Earl of *Huntington*, *Thomas* Earl of *Nottingham*, *John* Earl of *Somerset*, *John* Earl of *Salisbury*, *Thomas* Lord *Despenser*, and *William* le *Scrope*, the King's Chamberlain, brought a Bill of Appeal of Treason against *Thomas* Duke of *Gloucester*, *Richard* Earl of *Arundel*, and *Thomas* Earl of *Warwick*. This Bill having been read, by Advice of the Lords, and those of his Council about the King, the Lords Accused had a day given them to Answer in the [2.] next Parliament, which was to begin on the Monday after the *Exaltation* of *Holy Cross*, or fourteenth of *September* (being this Year on a Friday) so that the Parliament began the seventeenth of that Month.

[2.] *Rot. Claus.*  
21 *Rich. 2.*  
*Part 1. m. 27*  
*Dors.*

But before I proceed further with the Transactions of this Parliament, I shall take notice what our Historians observe of it, (and which will shew the Illegal and Arbitrary Proceedings against the Impeached Lords) that the King by certain indirect Practices, and tampering with the [3.] Sheriffs of several Counties, whom He had now made for this Purpose, caused them to Return such Knights of Shires without any due Elections, as He had before named, and sent down to them; and this is worth our Observation, because it is the first Example of any King's making use of an Arbitrary and Illegal Power in this kind, and was afterwards made one of the Chief Articles for this King's Deposition, and for which also the whole Proceedings of this Parliament were annulled and set aside in the first Year of King *Henry* the Fourth. But I shall here insert what happen'd before their Meeting.

[3.] The King by tampering with the Sheriffs, caused whom he pleas'd to be return'd Knights of Shires.

[4.] *Froiss. ib.*  
The Duke of *Gloucester* privately Murther'd at *Calais*.

In [4.] this Interval between this Great Council, and the ensuing Parliament, the Duke of *Gloucester* was privately Murther'd at *Calais*, some time after his Imprisonment, by the King's Command; the reason of which cruel and extraordinary Proceeding seems to have been, because He was afraid to bring him to his Tryal in Parliament, lest by his Innocency, or Popularity and near Relation to the King, he should have got off; but the manner of perpetrating this Murther is not commonly known, and is falsely related by *Froissart*, and other Writers, who had it only from some common Reports then current, that he was Strangled one day presently after Dinner with a Towel, as he was about to wash his hands. Tho' it is very probable what this Author relates, that the Duke fearing his Life was in danger, Confessed himself, and Received Absolution from a Priest the day he was Murther'd; [5.] the true manner of which, appears from a Deposition upon [6.] Record, of one *John Hall*, then a Servant to the Earl Marshal, who was assisting at this Murther, as he confessed before King *Henry* the Fourth in Parliament; that being call'd out of his Bed for that purpose, he went with several others to our Ladie's Church in *Calais*, where they all were made to take an Oath of Secrecy upon the *Host*, that they would not discover any thing relating to their present Design; and that then the Duke, being convey'd from the Castle to a certain Hostel called the *Prince's Inn*, was carried by

[5.] The true manner of doing it.  
[6.] *Placit.*  
*Part 1. m. 2.*  
*Hen. 4. N. 12.*  
*ad 16.*

Vol. III. one



One *John Lovet* st into an inner Chamber, where he was told by him, *Anno Dom.*  
 and two others, *Serle* and *Francis*, that it was the King's Pleasure he *1397.*  
 should immediately be put to death; whereunto he Answer'd, *That if*  
*it were so, he must submit*; so laying him down upon the Bed, they  
 with two or three others, laid another Bed over him, holding it hard  
 down upon his Face and Mouth, 'till they had stifled him, whilst the  
 said *Hall* held the Door, that none should come in 'till he was dead;  
 and then they took his Body, having strip'd it, and put it into Bed  
 and gave out, that the Duke died suddenly of an Apoplexy; but  
 for this horrid Murther, not only this *Hall*, but as many of the rest of  
 his Accomplices as could be found, were Executed in the beginning  
 of the next Reign.

I shall conclude this sad Subject with a brief [1.] Character of this  
 Prince, and his disposition; he was for his Person very Comely, and  
 Majestick, Vertuous, Valiant, and undertaking the greatest dangers,  
 where he saw his own Honour, and the Publick Good concern'd; but  
 being of a restless and turbulent Temper, was not much beloved by  
 his own Brothers, much less by most of the Nobility, except such  
 as were engaged with him in the same Party. So on the other side,  
 he was highly beloved, and honoured by the Common People, because  
 he stood up for their Liberties, against their being oppressed by the  
 Great Ones; so that when he was taken off, the People's Spirits fail'd  
 them for (as my [2.] Author has it) *they suppos'd the Common Hope*  
*and Support of the Nation against Tyranny, expir'd with him.* But this  
 good Quality of his did him no Service, but on the contrary, hasten'd his  
 Ruin; that being the Son of one King, and Uncle to another, it  
 made him to be at once both feared and hated by his Enemies.

I shall here add a Remarkable Transaction, which must have been  
 done about this time (if it were ever done at all) which I have some  
 reason to doubt it was not, because our own Historians are wholly silent  
 in it; but however, since it is related by [3.] *Froissart*, I shall here  
 briefly mention; it is, That when the unexpected News of the Duke  
 of *Gloucester's* death was brought into *England*, it highly provoked  
 not only the Common People, but divers of the Nobility, and espe-  
 cially his Brethren the Dukes of *Lancaster*, and *York*, who with all the  
 speed they could, hasten'd up to *London* with some Forces; which not-  
 withstanding all the King's Commands to the contrary, open'd their  
 Gates to them.

But the [4.] King had provided against whatsoever might happen  
 of that kind, by Reinforcing His Guards with Ten Thousand Archers,  
 and had Ten Thousand Men more in Arms about *London*, under the  
 Command of the Earls of *Huntington*, and *Salisbury*, besides a great  
 number of Barons, and Knights, with whom He kept Himself close at  
*Eltham*.

But [5.] tho' the *Londoners* were then very much inclin'd to Re-  
 venge the death of the Duke of *Gloucester*, and had given his Brothers  
 entrance into the City for that Purpose, yet the Earl of *Rutland*, Son  
 to the Duke of *York*, who was much in the King's Favour, used all  
 his Power with his Father and Uncle to Accomodate these Differences  
 (which might otherwise have proved Fatal to the Publick Peace) by  
 representing to them, that tho' it is true, his Uncle of *Gloucester* had  
 hard measure, yet what was now done, could not be remedied; and  
 Vol. III. I i i i i 2 that

[1.] A Character of the Duke of Gloucester.

[2.] *Thom: Walsingham, Ad hunc An.*

[3.] *ib. id. Cap. 134.* Upon the News of the Duke's death, his Brothers raise Forces, and march to *London*, where they are admitted.

[4.] The King reinforces His Guards.

[5.] *Id. ib.* The Earl of *Rutland* mediates a Peace between the King and the Dukes.

*Anno Dom.* 1397. that if they endeavour'd to Revenge it, the King of *France* might interest Himself in the Quarrel, and send over Forces to join with those in *England*, to Support the King's Authority; so that the Duke of *Lancaster* had some thoughts of sending to his Sons-in-Law the Kings of *Castile*, and *Portugal*, for Assistance; yet upon the intercession of the Earl his Nephew, and the instant Request of some Wise and Moderate Prelates, he was contented to come to an Agreement with the King, upon this [1.] Condition, that He should for the future do nothing of Moment without the Duke's Knowledge, and Advice; but thus Condition the King did not think fit long to observe, but gave Himself up to be wholly Govern'd by Evil Counsellors, as you will find hereafter.

[1.] Which is at last concluded, and on what Conditions.

[2.] *Chron. de Lambeth, Ms.* This Relation, whether true or false, I shall leave to the Reader's Judgment, and proceed to what is more certain. [2.] The Parliament being met at *Westminster*, according to the Summons, at the opening of it, the Bishop of *Exeter*, then Lord Chancellor, made a Speech, or rather Sermon, upon a Text of Scripture, and like a true Court-Chaplain, shew'd that the Royal Power, or Prerogative of the King was the only true and real Power, and that those who went about to take it away or restrain it, deserved the severest Penalties the Law could inflict.

[3.] T. W. Sir John Busby is chosen

Speaker. He, and Sir William Bagot, and Sir Henry Green, are the great Managers in this Parliament, to procure the former actions to be reversed.

[4.] *Vid. Stat. at large.*

21 *Rich. 2.* Cap. 1. The Chief Acts and Proceedings in this Parliament.

[5.] *Roi. Parl. 21 Rich. 2. N. 9*

The Commons desire the Clergy might appoint a general Procurator to act for them, and Sir Tho. Piercy is chosen.

[6.] *Vid. Stat. at large, Ib.*

which agrees with the Record. The Commission and Statute made in the 11th year, are repealed.

Then [3.] Sir John Busby (a Creature of the King's) was by His Nomination Chosen Speaker, who, together with Sir William Bagot, and Sir Henry Green, are noted for Proud, Covetous and Ambitious Persons; they by their Artificial and Cunning Speeches in Parliament, procured the Charters of Pardon formerly granted in the eleventh of this King's Reign to be reversed, which (saith my Author) was too easily agreed to by the Prelates, who declar'd they thought they ought to be Revoked, not considering that the Recalling such a Grace, does chiefly reflect upon the King's Honour; for since Mercy is the strength of the Royal Throne, whoever takes away that, destroys the main Foundation of it. Thus far my Author.

I shall now give you the effect of the Proceedings of this Parliament, as they are enter'd on the Roll, where one of the first things I find to have been Enacted in it, [4.] was, that Holy Church, the Lords Spiritual and Temporal, and all Cities, Burghs and Commonalties of the Realm, should have and enjoy all their Liberties and Franchises, as they reasonably had and enjoyed them in the time of his Noble Progenitors, Kings of *England*.

And [5.] for that several Judgments were heretofore undone, because the Clergy were not present, nor consenting to them, the Commons prayed the King that they might now appoint a General Proctor, who might have sufficient Authority to Act for them; whereupon the two Archbishops, and the Clergy of both Provinces, constituted and appointed Sir Thomas Piercy their Procurator, as by their Instrument doth appear.

Then both the [6.] Commission and Statute pursuant to it, made in the Eleventh Year of this King were repealed and made void, at the Prayer of the Commons, as being made Traiterously, by Constraint, and Compulsion, against the King's Will, His Royalty, Crown and Dignity; and it was Ordained and Established by the King, with the Assent of the Lords and Commons, that no such Commission, or the like, should be



be made for the future, and that he that should endeavour or procure any such, or the like to be made in time to come, and being thereof duly Convict, should suffer as a Traytor. *Anno Dom. 1397.*

Then [1.] the Pardons granted to the Duke of Gloucester, and Earls of Arundel and Warwick, in the Parliament of the eleventh Year of this King, were made void, as being got by force, against the King's Will; as also the Pardon granted to the Earl of Arundel at Windsor, in the Seventeenth Year of the King, was revoked, and annulled.

On the [2.] Twentieth of September, the Commons made Protestation to the King in full Parliament, that tho' they would shew and declare certain Matters and Articles they had then Advised of, and agreed amongst themselves, yet nevertheless it was, and is their intent and will, by leave of the King, to Accuse or Impeach any Person or Persons, as often as they should think fit, during the time of this Parliament; and they prayed the King that He would please to accept their Protestation, and that it might be entred of Record on the Parliament-Roll, which the King granted, and Commanded it to be done.

Then on the same day before the King in full Parliament, [3.] the Commons Accused and Impeached Thomas Arundel, Archbishop of Canterbury, of High Treason; for that he being the Chief Officer of the King (to wit) His Chancellor, (when he was Bishop of Ely) was Traiterously Aiding, Procuring and Advising, in making a Commission, directed to Thomas Duke of Gloucester, Richard Earl of Arundel, and others, in the Tenth Year of His Majesty's Reign; and made and procured himself, as Chief Officer of the Realm, to be put into it, to have Power with the other Commissioners to put it in Execution; which Commission was made in prejudice of the King, and openly against His Royalty, Crown and Dignity; and that the said Thomas put in Execution the said Commission.

Also [4.] for that the said Thomas Archbishop, in the eleventh Year of the King, procured and advised the Duke of Gloucester, and the Earls of Warwick and Arundel, to take upon them Royal Power, and to Arrest the King's Lieges, viz. Simon Burley, and James Barners, Knights, and adjudge them to death, contrary to the Will and Assent of the King; thereupon the said Commons prayed the King, that the said Thomas might be put in safe Custody, and in an honest manner. And the King answer'd, *Because the Accusation and Impeachment touched so high a Person, and a Peer of the Realm, He would be Advised.*

Then [5.] on the Twenty first day of September next following, the Commons prayed the King, that as they had Impeached and Accused the Archbishop of Canterbury, that he had Assented, or was in the Contrivance, to cause the Commission to be made on the Nineteenth of November, in the Tenth Year of the King, and agreed to the Execution of the same, which was expressly against His State and Dignity, that He would please to ordain such Judgment against the Archbishop, as the Cause required. Hereupon the King Commanded to be Recorded in Parliament, that the Archbishop being before Him, in the presence of certain Lords, confessed that he was Mistaken, or Erred in the exercise of the Commission, and therefore put himself under the King's Grace.

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[1.] *Ibidem.*

The Archbishop declared a Traytor by the Lords, and the Procurator of the Clergy, and Sentenc'd to be Banish'd, and his Estate forfeited.

[2.] *Ib. N. 17.* The Archbishop has a time set for his departure.

[3.] T. W. Fil. the 33d Article of the Parliament's Charge against King Richard.

The Archbishop is prevail'd with by the King to be absent this Parliament, and is Condemn'd unheard.

Thereupon [1.] the King and all the Lords Temporal, and Sir Thomas Piercy, having sufficient Power from the Prelates, and Clergy, (as appears upon Record in the said Parliament) adjudged and declared the said Article (which the Archbishop had confessed) to be *Treason*, and that it touched the King Himself, and also adjudged and declared him a *Traytor*. Upon which it was Awarded in Parliament, that he should be Banished out of *England*, his Temporalities seized, and his Goods and Chattels Forfeited to the King, who was also to appoint the time of his Exile.

And [2.] then the King Assigned him a time of Passage, *viz.* from the Eve of *St. Michael*, until Six Weeks next ensuing, to pass from the Port of *Dover* into *France*; and further, that he should Forfeit to the King all his Lands, Tenements, and Possessions, which he had in Fee-Simple, by Descent, Purchase, or otherwise, at the day of the *Treason* Committed, or after, or that any one held to his Use.

But [3.] now to say somewhat further from our Historians, concerning the Archbishop's Sentence, *Walsingham*, with whom also agrees the *Tower-Record*, gives a more particular Account of the manner of it thus. That the King, pretending a Kindness for him, assur'd him that nothing should be done, that might turn to his Prejudice. Upon this assurance, he (after his Confession, and being privately Pardon'd) absented himself from the Parliament, at the King's Command, yet notwithstanding that, he was Condemn'd to Banishment, tho' absent, and unheard; with a Clause, that he should remain in *England* but Forty Days after the Sentence given; and that not long after, the King sent privately to the Pope, and not only obtain'd the Archbishop's Deprivation; but also one *Roger Walden* the King's Treasurer, was Nominated Archbishop in his room. This is the next Example of any Archbishop, who (after *Thomas Becket*) was Banish'd by Sentence of Parliament.

I shall now go on with the rest of the Proceedings in this Parliament, against the Duke of *Gloucester*, and the Earls of *Arundel*, and *Warwick*, as they are contained in the [4.] Pleas of the Crown, entered on the same Parliament-Roll; and shall begin with the Articles of Impeachment then brought against them by way of Bill from the Lords Appellants (already mention'd) This Bill, or Impeachment was (as appears by the Title) directed to the King in Parliament, and is to this effect.

[4.] *Placit. Coron.*

21 *Rich. 2.* The rest of the Proceedings against the Duke of *Gloucester*, and Earls of *Warwick*, and *Arundel*.

I. [5.] *Placit. Coron.*

21 *Rich. 2.* The Articles of Impeachment against the Lords appealed.

In the first Place, it [5.] sets forth, that the Duke of *Gloucester*, and Earl of *Arundel*, designing to encroach, and have the Government of Your Royal Person and Kingdom, with the Liberties and Dignities thereof, as well within this Kingdom, as without; when the Parliament sat at *Westminster*, in the Tenth Year of Your Reign, they sent a Peer of the Land to You, who on their behalf, and by their Command, told your Majesty, that if You would not consent to make to them, and others whom they should name, such a Commission, whereby they might have the Government in the manner as is above related, You should be in danger of Your Life, and the Lords and Commons of Parliament would depart without Your leave; and that then You should see in what a miserable Condition You would be; so that in very fear of their Power, You then granted such a Commission as they desired.



desired. Then follows the Commission it self, recited at large (which I here omit) Dated at *Westminster*, the Nineteenth of *November*, in the Tenth Year of His Reign; by Vertue whereof, the Twelve Commissioners took the Government upon them. Anno Dom. 1397.

Also [1.] the said Duke and Earl of *Arundel*, to Accomplish their Traiterous Purposes, and to have Your Royal Person in their Power, [1.] <sup>II.</sup> *ib.* Ordered as they pleas'd the Government of Your whole State, with the Laws and Dignities thereof, and prevailed with *Thomas Earl of Warwick*, and *Thomas Mortimer* to join with them in their Traiterous Design; who by Agreement, as *Traitors to the King, and Kingdom*, all Met, and Assembled on the Thirteenth of *November*, in the Eleventh Year of Your Reign, at *Haringay-Park* in *Middlesex*, with a great Number of People Armed and Arrayed, and made divers of Your Liege-People in several Parts of Your Realm, to Rise, and March with them against Your Royal Person, contrary to their Legiance, and would not come before Your Presence, until they were secured by Your Oath that they might come, and return safely; and then they all appeared before You in Your Palace at *Westminster*, with a great Force of Armed Men, and Traiterously Constrained You to take them into Your safe Protection, against Your Will and Pleasure.

Also [2.] the said Duke, the Earls of *Arundel* and *Warwick*, and *Thomas Mortimer*, continuing their Traiterous Purposes, by Force and Violence did take and Imprison divers of Your Liege People, and amongst others, Sir *Simon Burley*, and brought him to Your Parliament, held on the Morrow of the *Purification*, in the eleventh Year of Your Reign, and there suggested divers Points of High Crimes and Treason against him, and the Advice of every Lord then present was asked concerning the Crimes of the said *Simon*, and afterwards the Duke and Earls would know Your Advice, and Opinion; and You Answer'd plainly, he was not Guilty in any Point objected against him. And after that, the Duke and Earls caused You to come into a secret Place at *Westminster*, and there shewed You the Particulars of the Crimes aforesaid. To whom You then Answer'd likewise, that the said *Simon* was not Guilty in any of those Points. And there they took upon them Traiterously to have You by Force consent to the Judgment they had designed against him; and yet You would not consent to any Judgment to be given against the said *Simon*. Yet nevertheless, the said Duke and Earls took upon them Royal Power, in prejudice of You, and in derogation to Your Crown, and without Your Assent, and contrary to Your Will, in Your Absence, and in the Absence of many other Peers of Parliament, without their Assent, and against their Wills, they Awarded that the said *Simon* should be Drawn, Hanged and Beheaded; and thereupon they Traiterously caused his Head to be struck off, against Your Peace, Crown, Majesty, and Dignity. [2.] <sup>III.</sup> *ib.*

Also [3.] the foresaid Duke, Earls, and *Thomas Mortimer*, continuing their Malicious, False and Traiterous Purposes and Force, at *Huntington*, on Thursday after the Feast of St. *Nicholas* (or Sixth of *December*) in the said eleventh Year, Traiterously agreed, and intended to have gone with their Forces to any place of the Kingdom, where they might have found Your Royal Person, to have surrendered Vol. III. [3.] <sup>IV.</sup> *ib.*

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to You their Homage-Liege, and to have depos'd You ; and this they would have done, had they not been hindred by *Henry of Lancaster* Earl of *Derby*, and *Thomas Mowbray* Earl of *Nottingham*. And the said Duke and Earls continuing their Traiterous Intention and Force, by Agreement between them, caused the Records in your Treasury, of the time of Your Great Grandfather King *Edward* to be searched, how He demised (or quitted) His Crown ; and they shew'd to You in Writing the Causes of the demise of His Crown in Your Palace at *Westminster*, in the time of Parliament, in the said eleventh Year, and they said Falshly and Traiterously that they had cause sufficient to depole You, but for the Reverence they had for Your most Noble Grandfather, and Father ; and they said also, that in hopes of your better Government, they would suffer You to continue in Your Royal Estate, and Regality.

V.
1b.

Which Treasons so imagined (or contrived) done and perpetrated by the aforesaid Duke, Earls, and *Thomas Mortimer*, against Your Royal Person, Estate, Majesty, and Dignity, as is above declared ; We the *Appellants* (there named) Your Loyal Lieges, have been and are ready to prove against the said Duke, the Earls of *Arundel* and *Warwick*, and *Thomas Mortimer* as You, our most dread Lord, and this High and Honourable Court, Your Parliament, shall Order. Thus much for the Articles of this *Appeal* against these Four Noble-Men.

[1.] 1b.
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f. Tried.

And [1.] now they having been read in Parliament, the *Appellants* prayed the King that the *Appealed* might be brought before Him in Parliament, to make their Answer ; and accordingly, *Ralph* Lord *Nevil*, Constable of the Tower, there present, had Orders to bring before the Parliament *Richard* Earl of *Arundel*, then his Prisoner, and he did so on the One and twentieth of *September*, on the Fourth day of the Parliament, and then by Command of the King, and the Peers, the Duke of *Lancaster* being Lord Steward of *England*, told him, that he was *Appealed* of divers High Treasons ; and the *Appeal* having been read to him, his Answer was [2.] That he had a General Pardon, in the Parliament holden in the eleventh Year of the King's Reign, as also a Charter of Pardon made to him within Six Years last past, and prayed the Allowance of them. To whom it was said by the Duke of *Lancaster*, by Command of the King, and with Advice of all the Peers of Parliament, that the Pardon granted in that eleventh Year was made by Constraint upon the King, by the said Duke, Earls, and others of their Party, accroaching to themselves Royal Power, in prejudice of the King, His Royal Estate, Crown and Dignity ; and that the Charter of Pardon was made in deceit of the King, and expressly against Him, and His Royal Dignity ; wherefore the said Pardon and Charter by Assent of the King, and all Estates of Parliament, upon the Request of the Commons, had been in this Parliament Repealed and made void. And then the Earl was asked if he would say any thing more ; and Sir *Walter Clopton*, Chief Justice of the King's-Bench, by the King's Command, declared to him the Law, and the Punishment he must undergo, if he Pleaded nothing else ; and told him, if he did not Plead further, he would be Convict and Attainted of all the Matters objected against him. Yet notwithstanding this, and the Repeal

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of

of the Charter and Pardon, he demanded the Allowance of them; whereupon the *Appellants* in their proper Persons, prayed the King that it would please Him to give [1.] Judgment upon him, as Convict of all the Points on which he was *Appealed*.

Whereupon [2.] the Duke of *Lancaster*, by Command of the King, and all the Lords Temporal, and Sir *Thomas Piercy*, having Power sufficient from the Prelates and Clergy (as appears by Record in this Parliament) Adjudged the said Earl of *Arundel* Guilty and Convict of all the Points of which he was *Appealed*, and Adjudged him a *Traytor to the King and Realm*, and that he should be Drawn, Hanged, Beheaded, and Quartered: And because the Treasons were so high, as to have gone about to surrender their Liege-Homage, and Depose the King, and the Levying of War having been so Notorious, the said Duke of *Lancaster*, by Command of the King, the Lords Temporal, and Sir *Thomas Piercy*, having Power as above, by Assent of the King, Awarded, that all the Castles, Mannors, Lands, Tenements, Reversions, Fees, and every other Mannor of Inheritance, as well in Fee-Tail, as Fee-Simple, which were the said Earl of *Arundel's* on the Nineteenth of *November*, in the Tenth Year of the King, or afterwards; and also all the Lands and Tenements, of which other Persons were infeoffed to his Use the said Nineteenth of *November*, or afterwards, with all his Goods and Chattels should be Forfeited to the King, and His Heirs; yet He Graciously remitted that part of his Judgment, of being Drawn, Hang'd, and Quartered. Then (to shew some Equity, as well as Rigour) the King and Lords, both Spiritual and Temporal, declared that it was not their intention that the Lands and Tenements, Fees, or any other Inheritance, of which the said Earl stood infeoffed, to the Use of another, by reason of this Judgment, should in any manner be Forfeited.

Then [3.] on the same day that the Earl of *Arundel* was brought into Parliament, and Tryed and Convicted, the King directed His Warrant to *Thomas* Earl Marshal, Captain of the Tower of *Calais*, and to his Lieutenant, signifying that he should bring over the Body of *Thomas* Duke of *Gloucester* with all the speed he could, to answer to divers Articles of Treason in Parliament objected against him by the *Appellants*; according to the Law and Custom used in *England*, and further, to receive what should be Order'd by the King, and His Council, concerning him in Parliament. This was dated at *Westminster* the Twenty first of *September*, in the One and Twentieth Year of His Reign, by the King and Council in Parliament.

The [4.] Answer or Return of the Earl Marshal to this Warrant was, That he could not bring the said Duke before the King and His Council in that present Parliament, for that being in his Custody in the King's Prison at *Calais*, he died there. This Return was made *September* the 24th.

Wherefore upon Reading of this Warrant, and Return in Parliament, the *Appellants* in their proper Persons prayed the King that the said Duke of *Gloucester* might be declared a [5.] Traytor, and Enemy to Him, as having Levied War in the Kingdom against His Person, contrary to his Allegiance, and that all his Lands, Tenements, Goods and Chattels, as they ought in this Case, notwithstanding his death, might be Forfeit. Then also the Commons of this Parliament prayed

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[1.] Upon his not making any other Plea, the *Appellants* demand judgment.

[2.] 1b. The Lords Temporal, and Procurator of the Clergy, adjudge the said Earl guilty of the Articles of which he was accused, and pass sentence upon him as a Traytor.

[3.] 1b. The King orders the Duke of *Gloucester* to be brought over from *Calais*.

[4.] 1b. The E. Marshal returns that the Duke is dead.

1b. [5.] Whereupon the *Appellants* pray that the said Duke should notwithstanding be Attainted.

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He is declar'd
guilty of
1 reason.

the King and Lords, that it being notoriously known to the King, and all the Estates of the present Parliament, and to all the Kingdom, that the said Duke, and others of his Party Assembled at *Haringay* in the County of *Middlesex*, with a great Number of People Armed and Arrayed to make War against the King, contrary to their Allegiance, and came with such Force into the presence of the King, which was to Levy War against their Liege-Lord, that he might thereupon be adjudged a Traytor, and that his Lands, Tenements, Goods and Chattels might be Forfeit, notwithstanding his death, as they ought in this Case. Upon this all the Lords Temporal, and the said Sir *Thomas Piercy*, thro' the Power as abovesaid, having been fully Examined, declared, that the said Crime and Treason were notoriously known to them, and the whole Kingdom; wherefore all the Lords Temporal, and the said Sir *Thomas Piercy*, by assent of the King, declared him guilty of Levying of War, as a Traytor, and adjudged all his Castles, Mannors, Lands, &c. which He was Possessed of on the Thirteenth of *November*, in the eleventh year of this Reign, as in the Earl of *Arundel's* Judgment to be Forfeit to the King and His Heirs, and that none of his Issue, or Heirs of his Body, or their Issue, or Heirs in time to come, should ever bear the Royal Arms of *England* entire, nor with difference, or in other manner whatsoever, nor should Inherit the Crown of *England*.

[1.] 1b. The Appellants pray the King that if there were any confession of the Person Appealed, it might be brought into Parliament.

Upon [1.] the 25th of *September*, the said Appellants in full Parliament, prayed the King, that if there were any thing upon Record, whether by Confession of any Person Appealed, or other Person whatsoever, touching their Appeal, that it might be openly known, and declared in full Parliament; then by Command of the King, and Advice of all the Lords Temporal, a Commission bearing date the 17th of *August* last past, directed to Sir *William Rickhill*, one of the Justices of the Common Bench, together with a Confession made before him by *Thomas* late Duke of *Gloucester*, by Vertue of the abovesaid Commission, with the return of that Commission, were then Read, which follow in these words in *English*.

Wheraupon Sir William Rickhill gives in this Confession made before him by the late D. of Gloucester.
*i.e. declared.

*This is the Answer of William Rickhill to the Commission of his Liege Lord the King. Thomas Duke of Gloucester, be the Name of Thomas Woodstock, the Zear of the King Richard Twenty one, in the Castle of Cales, by Vertue of a Commission of the King, as it is more plainly declared in the same, directed to William Rickhill Justice, bath * I know and Confessed to fore the same William all the Matters and Points I wrote (that is, wrot) in this great Roll annexed to this Schedule, the which Schedule and great Roll both Sealed under the Seal of the aforesaid William, and all the Matters and Points I know (that is declared) and Confessed by the foresaid Duke in the Castle of Cales, the foresaid Duke be his own Hand fully and plainly I wrote, and delivered it to the same William Rickhill touching this Matter it was I doe (i. e. was done) in the presence of the foresaid John, and John, and in none other manner.*

1b. The Confession it self.

I Thomas of Woodstock, the Zear of my Lord the King twenty one, be the Vertue of a Commission of my Lord the King, the same Zear directed to William Rickhill Justice, the which is comprehended more painly in the foresaid Commission, knowleche that I was one with sterynge of other Men,
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to Assent to the making of a Commission, in the which Commission I Anno Dom.
among other, restrained my Lord of His Freedom, and took upon me 1397.
among other Power * Real, truly not knowing ne witting, that time that * i. c. Regal.
I did against His Estate, nor His Royaltie, as I did after, and do now;
and forasmuch as I knew afterward that I had done wrong, and take upon
me more than me ought to do, I submitted me to my Lord, and cried
him Mercy and Grace, and yet do as truly and as meekly as any
Man may, and put me high and low in His Mercy and Grace, as He
hath always been full of Mercy and Grace to all other.

Also, in that time, that I came Armed into my Lord's presence,
and into his Palace, howsoever that I did it for drede of my Life, I
knowleche for certain, that I did Evil, and against His Regalie, and
His Estate, wherefore I submit me lowly and meekly to His Mercy,
and to His Grace.

Also, in that I took my Lord's * Letters of His Messages, and opened * Viz. At Rad.
them against his leave, I knowleche that I did Evil, wherefore I put me cor-Bridge.
lowly in His Grace.

Also, in that, that I Sclaundred my Lord, I knowlech, that I did Evil
and wickedly, in that, that I spake to him in Sclaunderous wise, in
Audience of other Folk; bot by the way, that my Soul shall too, I
meant none Evil therein, nevertheless I wot and knowleche that I did
Evil and Unkindly, wherefore I submit me high and low in His
Grace.

Also, in that I among other, communed and asked of certain Clercs, whither
that we might give up our Homage for dread of our Lives or not, and whether
that we were assentid thereto for to do it, trewly and by my troth, I have now
none full mind thereof (that is, he did not remember it) but I trowe rather
yes, then nay, wherefore I submit me high and low evermore in his Grace.

Also, in that, that I was in place, there it was Communed, and
spoken in manner of Deposal of my Liege Lord, truly I knowlech well,
that we were assentid thereto for two Days or three, and then we for
to have done our Homage and our Othes, and put Him as Highly in
his Estate as ever He was; but forsooth (that is sooth) there I knowlech
that I did untruly, and unkindly as to Him, that is my Liege-Lord,
and hath been so good and kind Lord to me, wherefore I beseech to Him
notwithstanding myn unkindness evermore of His Mercy and of His Grace,
as lowly as any Creature may beseech it unto his Liege-Lord.

And as of any new thing or Ordenance, that ever I should have witting
or known, ordained or assentid, privy or appert, that should have been
against my Lord's Estate, or his Lust (that is, Will) or any that longeth
about Him, syth that Day, I Swore unto Him at Langely, on God's
Body truly, and by that Oath that I there made, I never knew of ga-
thering against Him, ne none other that longeth unto Him.

And as touching these Points, that I have made Confession of to Sir
William Rickhill Justice, in the which I wot well, that I have offended
my Lord unkindly and untruly, as I have said before, how that I have
in all these Points offended Him, and done against Him, trewly and
as I will Answer before God it was my meaning and my weaning
(that is, thinking) to do the best for His Person and for His Estate;
nevertheless I wot well, and know well nowe, that my Deeds and my work-
ings were against my Intent; but by the way that my Soul shall too, of
these Points and of all other the which that I have done of negligence and

Anno Dom. 1397. of unkinning, it was never myne intent, ne my will, ne for my thought for to do a thing that should have been distresse or harming against Salvation, (that is, safety) of my Liege-Lords Person, as I will Answer before God at the Day of Judgment.

And therefore I beseech my Liege and Sovereign Lord the King, that He will of His Grace and Benignity accept me to His Mercy and His Grace, as I that put my Life, my Body, and my Goods, wholly at his Will, as lowly as meekly as any Creature can do or may do to his Liege Lord; beseeching to His High Lordship, that He will for the Passion of Him that suffered for all Mankind, and the Compassion that He had for his Mother on the Crosse, and the Pity that He had of Mary Magdalen, that He will vouchsafe for to have Compassion and Pity, and to accept me to His Mercy, and to His Grace, as He that hath ever been full of Mercy and of Grace to all His Lieges, and to all other that have sought been so nigh unto Him as I have been, though I been unworthy.

1b. At the desire of the Appellants, Sir William Rickhill declares the manner of his taking the said Duke's Confession.

After this Return to the said Commission, and the late Duke's Confession had been read, the Appellants prayed, that the said William Rickhill, well approved for his Loyalty and Discretion, might be Comanded by the King upon his Ligeance, to declare the Truth touching this Commission; who in the presence of the King, the Lords Spiritual and Temporal, and Commons in Parliament, said, and declared, that about eight of the Clock before Noon, he came within the Castle of Calais to the Duke of Gloucester, being then in good Memory, and out of Prison, and shew'd him the Commission, and the Cause of his coming to him, in the presence of John Lancaster, and John Lovejoy, and prayed him that what he had to say, he would put down in Writing, and then departed. Then returning to him about Nine of the Clock, in the Afternoon the same day, the Duke read in Writing the said Confession with his own Mouth, and gave the same to William Rickhill with his own Hand. And further, William Rickhill said to the Duke, if there were any thing more touching this Matter, he would speak it in satisfaction to the King, for the knowledge of the whole Truth of the Matter; whereupon the Duke said, he had forgot one thing that then came into his Memory, to wit, that he said to the King, *That if He would be King, He must not intercede for Sir Simon Butley to save him from Death; and prayed William Rickhill he would shew this to the King by word of Mouth.*

This Duke's Character.

I suppose this Confession was made but a few days before the Duke was Stifled to death at Calais, as you have already heard; for when they had extorted this Confession from him, they thought it sufficient thereupon to Attaint him of High Treason in Parliament, as now was done.

The Duke was one that stood up highly for the Liberties and Rights of the People, for which he was very much beloved by them; tho' it cannot be denied, but that he was one of too high and Turbulent a Temper, by which he so exasperated the King his Nephew, that it gave occasion to those who hated the Duke, to contrive his Ruin, to which also the King too readily assented. But to proceed with the Record, and Process against the rest of these Noblemen.

1b. The Earl of Warwick is brought in and tried for the same Crimes.

On Friday the 28th of September, the Constable of the Tower brought into the Parliament Thomas Earl of Warwick, who was presently

sently told by the Duke of Lancaster, Steward of England, by Command from the King, and all the Lords Temporal, that he was Appealed by Edward Earl of Rutland, and the other Appellants there named, of divers High Treasons, which were comprehended in two only Articles, *Viz.* That of Assembling with Force and Armed Men at *Harringay*, &c. and that Charge about Sir *Simon Burley*, and were drawn up in the same words, as in the Earl of *Arundel's* Case. To all which he Answer'd, That he well understood Those Treasons and Wicked Deeds, and that he was [1.] Guilty of them, and put himself into the King's Grace. Wherefore the Duke of Lancaster, by Command of the King, all the Lords Temporal, and Sir *Thomas Piercy*, having Power as aforesaid, Pronounced the very same Judgment against him in all things, as he had done against the Earl of *Arundel*; which the King moved with Pity, to the Reverence and Honour of God, at the Prayer of the Appellants, the Commons of Parliament, and the Lords Spiritual and Temporal, Remitted and Pardoned the said Judgment, and [2.] granted him his Life; and his Sentence was, That he should remain Prisoner in the Isle of *Man*, as long as he lived; upon Condition, that if any means were made to the King, or His Heirs, for any further Favour, or if he should make his Escape, then the Judgment should be put in Execution, and the King's Grace should be void.

[1.] The Earl confessing himself guilty, the same Judgment is given upon him, as upon the Earl of *Arundel*.

[2.] Yet the King grants him his Life, and he is order'd to perpetual Imprisonment in the Isle of *Man*.

[3.] *1b.* *Thomas Mortimer* is likewise Impeached, but being fled into *Ireland*, is Summon'd to appear within 3 Months.

Then [3.] the Commons before the King in Parliament, affirmed all the said Appeals to be good and Lawful; and further the Appellants Impeached *Thomas Mortimer* of The Treasons comprised in the same Appeal; but he being then in *Ireland*, fled unto the Mountains to the *Irish* Rebels. A Proclamation was thereupon order'd in Parliament to be made throughout *Ireland*, that he should be brought into *England* within Three Months, to Answer to the Impeachment of the Commons, or else be declared a Traytor, and all his Mannors, Castles, Lands, Tenements, &c. which he was possessed of on the 13th of *November*, in the eleventh Year of the King, together with all his Goods and Chattels, should be Forfeited to the King. Then the Appellants had time given them until the next Meeting of the Parliament, which was now Adjourned to the *Quinden* of *St. Hillary*, or 27th of *January*, to meet at *Shrewsbury*; but there the said [4.] *Thomas Mortimer* not appearing, the Duke of Lancaster, and all the Lords Temporal, and *William le Scrope* Earl of *Wiltshire*, having sufficient Power from the Prelates and Clergy, as appeared by Record in Parliament, by Assent of the King, gave Judgment against him, according to the Tenor of the said Proclamation.

[4.] *1b. N.* But not Appearing, he is Attainted.

This I thought fit to insert here, that I may not break the Thrid of this Relation, tho' it properly belongs to the Transactions at *Shrewsbury*, in the beginning of the next Year.

But before I proceed further, to Report what was done in the next Session of this Parliament, at the Place last mention'd, I shall from the same Parliament-Roll give you the remainder of the Transactions of this present Session at *Westminster*.

[5.] *1b.* The Commons intercede for the rest of the Lords and Bishops who had been named in the late Commission, who are thereupon acquitted.

After these severe Proceedings, [5.] the Commons interceded with the King for His Favour towards the Lords and Bishops who were Named Commissioners in the former Commission, in the Tenth Year of His Reign; but neither procured it, consented to it, nor acted in

Anno Dom. 1397. the Execution of it; Three whereof were yet alive, *to wit*, the Duke of York, the Bishop of Winchester, and Richard le Scrope Knight; and Four dead, *viz.* William late Archbishop of Canterbury, Alexander late Archbishop of York, Thomas late Bishop of Exeter, and Nicholas late Abbot of Waltham, whose Loyalty and Innocency was acknowledged in Parliament, and the Declaration thereof was made a Statute by the King, with the Advice and Assent of the Lords, at the Prayer of the Commons.

[1.] *ib. N. 27.* They likewise intercede for the Earls of Derby and Nottingham, as having not consented to the Treasons of the Persons Attainted.

They [1.] further humbly beseeched the King that He would please to Consider, how at the time when Thomas Duke of Gloucester, Richard Earl of Arundel, and Thomas Earl of Warwick, did rise in Arms against their Allegiance to the King; the said Duke and Earls would have come and seized the Person of the King, with intent to have killed a great Number of His Lieges, and would have accomplished their wicked Purpose and Intent, if they had not been disturbed by those Honourable Persons of the King's Blood, Henry of Lancaster, Earl of Derby, and Thomas de Mowbray Earl of Nottingham, conceiving and understanding the Actions of the Duke and Earls to be Notoriously against their Allegiance, and the Estate of the King; and being willing to do their Duty to Him, departed from their Company, and came to the Presence of the King; therefore that it would please Him,

[2.] Whereupon the King in Parliament declared the said Earls to be Innocent, and this Declaration is passed into a Statute.

that since the Commons had specially recommended the Persons of the Earl of Derby and Nottingham to His Favour, openly to declare in this Parliament the Estate, Name, and good Fame, and the Loyal Behaviour of them the said Earls. [2] Whereupon the King sitting in His Royal Throne in Parliament, answered, That this Matter was better known to Him than any other, and then witnessed and declared the good Behaviour, Loyalty and Fame of the said two Earls, and held them for His Loyal Subjects, and that they should be reported and

[3.] *ib. N. 32.* All Judgments given in this Parliament, to have the Force of Statutes.

taken for such throughout the Realm; and that they should be excused without any Impeachment, Molestation, nor Grievance, for the Cause aforesaid, in any time to come. And further, that the King by Assent and Advice of all the Lords in Parliament, and at the Prayer of the Commons, Ordained and Established, that this Declaration and

[4.] *ib.* A great Advancement of several Earls to the Titles of Dukes, and divers Lords made Earls.

Grant should have the Force of, and be holden for a Statute; [3] and that all Judgments, Ordinances, Declarations, and Establishments made in this Parliament, shall have the Force of Statutes.

As [4.] for other Transactions of less moment, we find that on Michaelmas-day, being Saturday, the King Created Henry Earl of Derby, Duke of Hereford, Edward Earl of Rutland, Duke of Albe-marle, Thomas Holland Earl of Kent, Duke of Surrey, John Holland Earl of Huntington, Duke of Exeter, (who were His Half-Brothers) and Thomas Mowbray Earl of Nottingham, Duke of Norfolk; then the same day, John Beaufort was made Earl of Somerset, and Created Marquess of Dorset, Thomas Lord de Spencer Earl of Gloucester, Ralph Nevill Earl of Westmoreland, Thomas Piercy Earl of Worcester, and William le Scrope Earl of Wiltshire; which was done the more closely

[5.] *ib. N. 36.*

to engage them to the King's Interest, and Arbitrary Designs. [5.] So the Parliament being Adjourned to the 27th of January, at Strewsbury, all things still then were to remain in the same State and Condition.

But to give you an account of some other Transactions of Moment, after the Parliament was risen.

Then [1.] the next day, being *Sunday*, the Lords Spiritual and *Anno Dom.* Temporal, after Mass, was Celebrated in the Abbey-Church at West- 1397.
minster, before the Shrine of St. Edward, made Oath in the presence of the King. And the then Prelates, that is to say, all the Bishops there present, with several Mitred Abbots and Priors (for the Names of whom, I refer you to the Roll) took likewise the same Oath in the Form following.

[1.] *ib. N. 37.*
The Bishops and Lords take an Oath to observe all the Statutes of this Parliament.

YOU shall Swear, that well and truly you shall hold, sustain and maintain, without fraud or Deceit, all the Statutes, Establishments, Ordinances, or Judgments made or given in this Parliament, without doing any thing to the contrary of either of them, or the Dependencies on, or Parcel of them; nor that you will ever Repeal, Revoke, make Void, Reverse, or Annul, nor ever suffer them to be Repealed, Revoked, Cassated, made Void, Reversed, or Annulled, so long as you live, saving to the King, His Royalty, Liberty, and the Right of His Crown.

ib. N. 38.
The Form of the Oath taken by the Lords Spiritual, &c.

So [2.] soon as they had thus Sworn, the Lords Temporal, viz. [2.] *ib. N. 39.* Seven Dukes, Eight Earls, and One and Twenty Barons (for whose Names likewise I refer you to the Record) also took the Oath in the Form following.

YOU shall Swear, that in the time to come, you shall never suffer any Man living to do any thing contrary to the Statutes, Establishments, Ordinances and Judgments made or given in this present Parliament, nor to any Dependencies on, or Parcel of them; and if any one shall do so, and be duly Convicted, you shall use your entire Power and Diligence, without fraud and Deceit, to prosecute him before the King, and His Heirs, Kings of England, and cause him to have Execution as an High and False Traytor to the King, and Kingdom; Saving to the King His Regalie, or Royalty, Liberty and Right of His Crown.

ib. N. 40.
The Form of the Oath taken by the Temporal Lords.

Then [3.] the King asked the Knights of Shires there present, [4.] *ib. N. 41.* (for it seems they were not yet gone home) Whether they would hold and keep the same Oath? who promised with one Voice they would, holding up their Hands on high, as a sign of their Agreement to the said Oaths.

And [4.] immediately after, Sir Thomas Piercy took the same Oath [4.] *N. 43.* the Lords Temporal had made, for, and in the Name of the whole 44. Sir Thomas Piercy makes the same Oath on behalf of the Clergy; and all that should infringe the said Statutes are declared Excommunicate.
Clergy; and all that should infringe the said Statutes are declared Excommunicate.

Anno Dom. 1327. openly or privately, by Deed, Counsel, or Advice, should contravene or do against any of the foresaid Premises, the King's Royalty and Prerogative in all things saved.

But I shall now (before I dismiss the Transactions of this Session of Parliament) give you a further Account of the Execution of the Earl of [1.] *Arundel*, who suffer'd the same day on which he received his Sentence; that part of it, concerning his being Drawn, Hang'd and Quarter'd, was remitted by the King, because of his Quality; so his Head was struck off near the *Tower*.

[1.] T. W.
An account of
the Execution
of the Earl of
Arundel.

[2.] His
Character.

This [2.] Earl in all his Tryal, Condemnation and Execution, was observed to shew a great deal of Resolution, without the least Symptom either of Guilt or Fear; but seeing the *Earls* of *Nottingham* and *Kent* (of whom the first was his Son-in Law, and the second His Nephew) to be very well pleated at his Execution, he calmly said thus to them: *Truly it might have become you, at least, rather to have been Absent; but the time will come e'er long, that as many shall marvel at your Misfortune, as they do now at mine.*

But *Froissart*, I know not from what false information, makes the *Earls* of *Warwick* and *Arundel* to have been Beheaded by the King's sole Command, without any Legal Process; and that the *Earl* of *Nottingham* not only tyed a Cloath before the eyes of the latter, but also Executed him himself; a Fact, which our Historians are wholly silent in, and which indeed seems too Cruel and Barbarous to be done by any Man of Quality, much less by a Son-in-Law. But it is very probable what the same Author there further Relates, that the King was present at his Execution; tho' it was certainly an Act unworthy His Royal Dignity, and favoured too much of Personal Hatred and Revenge, &c. to feed his eyes with such a dismal Spectacle.

[3.] The
Stories that
were raised
after his
Death.

This Earl being a great Assessor of the Peop's Liberties, was highly beloved by the Commons. And [3.] *Walsingham* affirms, that the King was afterwards Haunted with an Apparition, or Imagination of his Ghost at least, for He no sooner closed His eyes to Sleep, but strait He fancied *Arundel* stood before Him. And the more to disturb Him, a Miracle was Reported, That his Head of it self was grown to his Body; and this was asserted with so much Confidence, that the King caused his Tomb to be opened, to disprove the Fiction. And understanding that still the People went on Pilgrimage thither, as to the Shrine of a Saint, or Martyr, He caused the *Augustin* Fryars in *London*, amongst whom he was Buried, to take down his *Escutcheons*, and abscond his Grave, by laying a new Pavement over it.

[4.] *Id ib.*
The subtil-
five Carriage
of the Earl of
Warwick sav'd
his Life.

But the [4.] same Author tells us, That *Thomas Beauchamp* Earl of *Warwick*, upon his Arraignment, did not carry himself with so much Courage and Resolution, but confessed with Tears that he had been a Traytor in joyning with the Duke of *Gloucester*, and the other Lords, by Acting against the King's Pleasure. Wherefore the King out of Pity Pardon'd his Life, and he was Condemn'd to perpetual Imprisonment in the *Iste of Man*, as has been already related. But as for the Lord *Cobham*, he was also Banish'd, tho' there was no new Matter against him, but only that he had been appointed by Parlia-
ment

ment to be one of the Commissioners of Inspection before-mention'd, [1.] The Parliament made to the King's purpose.

After [1.] these things were thus dispatched, this Parliament being now made for the King's Purpose, was not Dissolved (as Parliaments then usually were) when the Business was over, but was further Prorogued, as has been already observed.

In [2.] the beginning of this Year, on the 27th of January, the Parliament (according to the late Prorogation) met at *Shrewsbury*, *Anno Dom. 1398.* which Place is suppos'd to have been pitch'd upon by the King, as being remote from *London*, and on the Borders of *Wales*, (a Country wholly devoted to Him) and so most proper for the carrying on the present Designs of the Court.

On the Day of their Re-assembling, the [3.] Chancellor put them in mind that this Parliament was first Summon'd to *Westminster*, for the Honour of God, and that *Holy-Church* might enjoy all Her Liberties and Franchises; and that all the Lords, Knights, Citizens, and Burghesses, might have and enjoy all their Liberties, and Franchises, as they reasonably enjoy'd and used them in former times: Also that there might not be more Governours in the Kingdom than One; and that the Laws might be duly obey'd, and executed, as was more fully contain'd in the setting forth and declaring the Cause of this Parliament.

Also [4.] the Chancellor shewed to the Commons, that the King would be inform'd by them how the Charge should be born for the Defence of *England*, *Ireland*, *Guyenne*, the Marches of *Calais*, and also those of *Scotland*, in case they kept not the Truce made for Four Years, which was to end at *Michaelmas* next coming.

Then [5.] the Lords Appellants in this Parliament, viz. *Edward Duke of Albemarle*, *Thomas Duke of Surrey*, *John Duke of Exeter*, *John Marquess of Dorset*, *John Earl of Salisbury*, *Thomas Earl of Gloucester*, and *William Earl of Wiltshire*, set forth to the King, that certain Lords lately Convict and Attainted, viz. the Duke of Gloucester, the Earls of *Arundel* and *Warwick*, by Coertion and Compulsion had made Him Summon a Parliament at *Westminster*, on the Morrow after *Candlemas*, in the eleventh Year of His Reign; and then were particularly recited all the Questions and Answers formerly put to, and made by Sir *Robert Tresilian* Chief Justice, with the other Judges, and King's Serjeant at *Nottingham* (as are already recited) in the said eleventh Year; and then by the Assent of the King, the Lords Spiritual and Temporal, and at the Request of the Commons, the said Answers were confirmed to be good in Law, and the whole Proceedings of the Parliament held in His eleventh Year, declared to be null and void.

But since these Proceedings are more largely recited in the [6.] Parliament-Roll; than in the Printed Statute-Books (which are there very short) I shall from the former, give you the whole Process and manner of doing it.

After [7.] the Reading the said Questions and Answers, as well before the King and Lords, as Commons, all the Estates of Parliament were severally asked what they thought of those Answers? And they said, they thought the Justices had made and given their Answers duly and Lawfully, as good and Liege People of the King ought to do; and Sir *Thomas Skelton* Learned in the Law, *William Hankeford*, and void.

Anno Dom. 1398. and *William Brenchly*, the Kings Serjeants, said the Answers were good and Lawful, and that if the same Questions had been put to them, they would have given the same. *William Thirning* Chief Justice of the Common Bench, said, *the Declaration of Treason not declared, belonged to the Parliament*; but were he a Lord or Peer of Parliament, and had been asked, he would have said in the same manner. So likewise *William Rikhyll* a Justice of the Common-Pleas, and Sir *Walter Clopton* Chief Justice of the King's Bench answer'd and affirm'd the same things; wherefore the former Answers of the Judges in the eleventh Year were judged and held to be good and sufficient in this Parliament.

[1.] *Ibidem.*
The Parliament is now declared to be null and void.

Whereupon [1.] by Assent of the Lords Spiritual and Temporal, the *Précurators* of the Clergy, and Commons, by Advice of the Justices and Serjeants aforesaid there present, it was Judged, Ordained and Established, that the Parliament holden in the said eleventh Year, shall be clearly annulled; and holden for none, as being done without Authority, and against the Will and Liberty of the King, and the Right of His Crown; and that all the Judgments, Statutes and Ordinances made in the same, with all things depending upon them, shall be revoked, and annulled, reversed, and repealed, and holden for none; and that all Lands, Tenements, Fees, Advousons, and other Possessions, seized as Forfeit by Colour of the said Judgment, shall be restored and deliver'd to them, who were Condemn'd, or put out, or else to their Heirs, and to them that have any Cause of Action, or Title of Right, with all manner of Liberties or Franchises, as they had at any time, with Restitution of Goods and Chattels.

[2.] *Ib. N. 51.*
The Speaker of the Commons desires some further security for the maintaining the ordinances and Judgments of this present Parliament.

On [2.] *Wednesday* the third day of their Meeting, *John Bussy* the Speaker alledged, that before that time many Ordinances and Statutes made in divers Parliaments had been reversed by diversity of Opinions, and other Reasons and Subtilties, and on behalf of the Commons, prayed the King, that the greatest Security that could be given, might be taken for the not undoing the Ordinances and Judgments made in this Parliament. Whereupon the King charged all the Estates in Parliament to give Him their Advice, for the best and most firm Security in this Case. The Lords Spiritual and Temporal Answer'd, That they had Sworn before to hold and keep the said Judgments, Establishments, and Statutes, which they would maintain with all their power, as much as in them lay. The King also demanded of the Justices and Serjeants, if they knew any other more secure way for the keeping and observing of the said Ordinances and Judgments? Who Answer'd, the greatest Security that could be, was already establish'd by Parliament; and then the Lords Temporal and Spiritual renewed their Oaths before the King in Parliament, upon the Cross of *Canterbury*, and also the greatest part of the Commons held up their Hands in Affirmance of the said Oaths, as did likewise the *Proctors* of the Clergy, and the Knights about the King; and after Proclamation had been made in Audience of all the People, to know if they would consent to this manner of Security? They Answer'd, *lifting up their Hands on high, and crying with loud Voices, that it pleased them well, and they fully consented thereunto.*

As [1.] for Private Business in this Session of Parliament, *Thomas Anno. Dom. 1398.*
le Despensers Petition'd the King in full Parliament, wherein he recites the Petitions of *Hugh* the Father, and *Hugh* the Son, (his Grandfather and Great Grandfather) made to the King in a Parliament holden at *Tork* *[1.] lb. N. 65.*
 three Weeks after *Easter*, in the Fifteenth Year of *Edward III.* to wit

In which Parliament, the Exile and Disherison of both those Earls were annulled for these Reasons. *First*, Because they were not Appealed or called to Answer, nor due Process made against them according to Law. *Secondly*, Because the Prelates, who were Peers of the Realm did not consent to the said Exile and Disherison. *Thirdly*, Because it was against *Magna Charta* that any Man should be Exiled, or Tryed, or otherwise Destroyed without Judgment of his Peers. And whereas this Adnullation was afterwards made void in the first of *Edward III.* they pray that that Statute may be reversed, and all the Articles and things contain'd in it, for the Reasons aforesaid, and it was reversed and made void accordingly; not only for the Causes before express'd, but also considering that the Repeal made by King *Edward III.* was at such time as his Father *Edward II.* was living, being very King, and in Prison, so that He could not resist the same.

The Record of this Matter is long, and also the Proceedings against the two *Spencers* in the 14th and 15th of *Edward II.* and the Statute of the first of *Edward III.* are also there recited, which you may see in those Years; but all these Proceedings were again reversed in the first Parliament of King *Henry* the Fourth; so that there can nothing be concluded from the Precedents of these two Parliaments, as well as some others, but that they have for the most part Voted according to the present Ruling Temper of the Nation, or the Inclination of the Prince that called them.

On [2.] Thursday the last Day of the Parliament, the Duke of *Hereford* in full Parliament, humbly kneeled before the King, and spoke thus to Him. My Liege Lord, I know well that many Riots, Disturbances and Evil Deeds have been made and done within Your Kingdom, to the Offence of You and Your Royal Estate; in the which I myself was present, amongst others, not with an ill intent or purpose to offend You, as not knowing then it was any Fault or Offence against You. But Sir, since I now know well, and confess my Offences, in so doing, I beg Your Mercy and Pardon; whereupon the King graciously accepted the humble Prayer and Confession of the Duke, and granted him Pardon in full Parliament, for whatever he had done in the things aforesaid, and what he deserved for the same; and further, the King promised him to be his good Lord, and this He declared to all the Estates in Parliament, how He had given him full Pardon for the Matters aforesaid. *[2.] lb. N. 67.*

The [3.] Commons on the same day, by assent of the Lords Spiritual and Temporal granted to the King the Subsidy of *Wool*, *Leather*, and *Woolfells* for His Life, and one Tenth and Fifteenth, and half a Tenth and Fifteenth, which was more than ever they had given to His Grandfather. *[3.] lb. N. 75.*

Upon [4.] which Grants, the Commons prayed the King to bestow three or four Thousand Marks on those that had been plunder'd at *Radcot-Bridge*, and to pay the Lords Appellants their Expences, which was granted. *[4.] lb. 76.*

Anno Dom.

1398.

[1] *Ib. N. 77.*

And [1.] then the same day follow'd a General Pardon for all things done before that time, which was *Thursday* the last of *January*, and the last day of this Parliament; yet with this Proviso, that they who rode and gathered themselves forcibly against the King in the eleventh Year of His Reign, with the Lords since Convict and Condemned, should have no benefit of the Pardon, if they sued not forth their Charters between that and *Midsummer* next ensuing.

[2.] *Ib. 78.*

After [2.] the Grant of this Pardon, the King by his own Mouth declared, That if the Lords and Commons, who in time to come shall sit in Parliament, shall let or any ways disturb Him in the Collection of the said Imposts on *Wooll*, *Leather*, and *Woolfells*, so granted as above, their proceedings shall be void.

[3.] *Ib. N. 74.*

*Vid. Stat. at
large, 21 Rich.
2. C. 16.*

Also [3.] the same *Thursday* (the last day of the Parliament) the Commons prayed the King, that whereas they had before them divers Petitions, as well for special Persons, as others not Read and Answer'd, and also many other Matters and things had been moved in the presence of the King, which for shortness of time could not be well determined, it would please Him to commit full power to certain Lords, [and Others, there named, to Examine, Answer and Dispatch the Petitions, Matters and Things above-said, and all Dependencies on them, to which Prayer the King Assented; and thereupon by Authority and Assent of Parliament, it was Ordain'd, that *John Duke of Lancaster*, *Edmund Duke of York*, *Edward Duke of Albemarle*, *Thomas Duke of Surrey*, *John Duke of Exeter*, *John Marquess of Dorset*, *Roger Earl of Marche*, *John Earl of Salisbury*, *Henry Earl of Northumberland*, *Thomas Earl of Gloucester*, *Thomas Earl of Winchester*, and *William Earl of Wiltshire*, or any six of them; together with *John Husey*, *Henry Green*, *John Russel*, *Henry Chelmswike*, *Robert Ten*, and *John Golofre Knights*, coming for the Commons of the Kingdom to that Parliament, or any Three of them, shall have full power to Examine, Answer, and fully Determine all the said Petitions, and the Contents of them; as also all other Matters and Things moved in the presence of the King, and all other Dependencies upon them, not determined, as they shall think best by their Good Advice and Discretion in this behalf, and then the Parliament was Dissolved. By which Act, the whole Power and Authority of the Kingdom was now devolved upon the King, Twelve Peers, and Six Commoners, and how Arbitrarily they exercised it, you will see hereafter.

I cannot but add from our [4.] Historian, that in the beginning of this Parliament, divers Noblemen were Advanced to higher Titles (as has been already related from the Record) so that there were now no less than Five New Dukes, and One Marquess, (the first of that Title) Created; which much lessen'd the value of those Titles; but the King to enable them the better to maintain their New Dignities, made a large distribution of the greater part of the Lands of the late Duke of Gloucester, and of the Earls of *Arundel* and *Warwick*, to these new Created Dukes and Marquess, hoping thereby to have tied them to Him by a double Obligation of Duty and Affection; nor considering that such bought Friends are seldom either well satisfied, or sure in time of need.

Vol. III.

Further-

Furthermore, [1.] to gratifie the *Cheshire-Men*, who had chiefly assisted Him and His late Favourites, He Honour'd that Country with the Name and Dignity of a Principality, and added to the rest of His own Titles, that of *Prince of Chester*; and then He also added to His Coat of Arms, the suppos'd Bearing of *Edward the Confessor*.

Anno Dom.
1398.
[1.] The King to gratifie the *Cheshire Men*, takes the Title of *Prince of Chester*.

But tho' a General Pardon was Granted for all past Offences to all the King's Subjects, but clog'd with a strange Clause of Exception, exempting Fifty Persons in number from the benefit thereof, whose Names were not expressed, but left to the King's own Knowledge and Pleasure; to the end, that if any of the Nobility should happen any way to offend Him, He might nominate him among the number excepted, and so still keep them within his danger; by which *Reservation*, the General Pardon became as good as no Pardon at all; since scarce any Man in *England* could assure himself thar he was included in it; and so this Parliament ended, tho' not the power of it,

Lastly, to add the greater strength and Reverence to the Acts and Proceedings of this Parliament, [2.] King *Richard* procured some time after the Pope's Bull, containing grievous Censures and Curses upon all that should presume to break or oppose them, which was solemnly Published at *Paul's Cross*, and other Places throughout *England*. But this, as well as the Oaths that had been taken by the Lords Spiritual and Temporal, and Commons, to observe what had been lately Ordained, signified nothing at all, when the General Bent and Humour of the Nation, by reason of the Common Grievances and Oppressions, made them run another way, as you will find hereafter.

But for the present, all things seem'd to concur with the King's Designs, the Heads of the Party who had so long oppos'd Him being cut off, and the [3.] Nobility thereby either terrified, or Bribed by Honours or Estates, and the *Commons* unable to express their Resentments otherwise than in Sighs, Murmurs, and Complaints, the King's Great Officers of State, nay His very Parliaments being now Model'd according to His pleasure, so that no King since the Conquest having been more Absolute than He was now, He no doubt supposed Himself in a Condition most Secure and Happy; but there is an over-ruling Providence that blasts the most deep laid Projects and Designs, when not founded on the sure Grounds of Equity, and the Publick Good, as the Event will declare; and we shall find in a little time, how this King by unexpected Means, and unlikely Instruments, was embroil'd more than ever, and left so destitute of Power, and Friends, as to be forced, without striking one Blow, to Surrender His Crown; and (which was yet more grievous to a Generous Mind) to acknowledge Himself both unworthy and unfit to wear it any longer.

[3.] The sad Condition of the Nation by reason of the Arbitrary Power of the King, who now thought Himself secure.

But to shew you the grounds and occasions of this great Revolution, it proceeded from a [4.] Quarrel that arose before the Parliament broke up, between the Dukes of *Hereford*, and *Norfolk*, from the former's accusing of the latter of certain words spoken between them two against the King's Person, and Government; for which, I refer you to the [5.] Pleas of the Crown in Parliament this Year, wherein are recited all the Circumstances relating to this great Affair, and the Proceedings thereupon, *Viz.*

[4.] The great Revolution of the King's Affairs, that proceeded from the Quarrel between the Dukes of *Hereford*, and *Norfolk*.
[5.] *Placit. Coron. in Parl.*

Anno Dom.
1398.

[1.] The whole Proceedings in this Affair related from the Record.

That [1.] on Wednesday the 30th of January, (being the day before the Parliament ended, Henry of Lancaster, Duke of Hereford came before the King with a Schedule in his hand, and said thus: That he had already come by His Command into His presence at Haywode, where he had informed Him that Thomas Mowbray Duke of Norfolk, had spoken many dishonest words in slander of His Royal Person, and that they were spoken to him the Duke, and that then the King Charged him upon his Allegiance, that he should truly repeat the words as they were spoken. Upon this, the Duke of Hereford, not thro' Malice, or any other Cause, but only to obey the King's Command, as he was bound, had now set down in Writing the words which the Duke of Norfolk spake to him, as before he had conceived and born them in his memory, and were in this Schedule, which he deliver'd to the King, with Protestation to add to or diminish therefrom at all times, and when he pleased, as it should be needful, Saving always the Substance of the present Schedule, which was to this effect.

[2.] That was when the Duke of Hereford was routed, and ran away.

That in the Month of December, in the Twenty first Tear of Your Reign, the Duke of Hereford Travelling between Brainford, and London, met the Duke of Norfolk with a great Train, and Discoursed with him of divers Matters, amongst which, he told him, they were all ready to be undone, and the Duke of Hereford demanded why? he answer'd, for the Fact at [2.] Radcot-Bridge; the Duke of Hereford said, how can that be? for the King hath shewn us Favour, and declared us in Parliament to have been Good and Loyal towards Him. The Duke of Norfolk answer'd, notwithstanding that, it will be done to us, as has been done to others before, for He will vacuate this Record. The Duke of Hereford Reply'd, this would be a great wonder, since the King had said it before all the People, that He should afterwards make it be Annulled. And further, the Duke of Norfolk said, this was a marvellous World, and unsafe, for I know well, said he, that if my Lord, your Father and Ton had been taken, or killed, when you came to Windsor, after the Parliament was up; that the Dukes of Albemarl, and Exeter, the Earl of Worcester, and himself, were agreed never to undo any Lord without just and reasonable Cause, and that the malice of this Fact was in the Duke of Surrey, with the Earls of Wiltshire, and Salisbury, drawing to them the Earl of Gloucester, who had Sworn to undo Six other Lords, that is to say, the Dukes of Lancaster, Hereford, Albemarl, and Exeter, with the Marques of Dorset, and himself. He also said, they purposed to Reverse the Judgment of Earl Thomas of Lancaster, and hereby we and many others should be Disinherited. The Duke of Hereford said, God forbid, for it would be a great wonder if the King should Assent to this, for it was with a Chearful Countenance, that He promised to be a good Lord to them, and others, and also that he knew He had Sworn it by St. Edward; and the Duke of Norfolk answer'd, He had done the same to him many times, and Sworn by the Body of God, and that for all this He was never the more to be trusted; and further said to the Duke of Hereford, that the King was about to draw the Earl of Marche and others to the same Agreement and Purpose of the said Four Lords to destroy the rest aforesaid. The Duke of Hereford Reply'd, if it be so, we can never trust them. The Duke of Norfolk return'd, for certain

* Here some thing in the Record cannot be read.

not; for altho' they cannot accomplish their Design at present, yet they *Anno Dom.*
will be contriving Ten Years from this time to destroy us in our 1398.
Houses.

This [1.] *Schedule* being Read before the King, and Lords, on [1.] The *Schedule* being read
Thursday the 31st of *January*, (and last day of the Parliament) it was before the K.
then Ordain'd by Him, with the Assent of all the Estates in Parlia- add the
ment, that the Matters therein comprized, should be determined, and Lords, the
ended, by the good Advice and Discretion of the King, and the Com- Matter is re-
missioners already assigned by Authority of Parliament, to wit, the fer'd to those
Dukes of *Lancaster*, *Tork*, *Albemarl*, *Surrey*, and *Exeter*; the Mar- to whom the
quets of *Dorset*, the Earl of *Marche*, *Sarum*, *Northumberland*, and *Glou-* Power of the
cester, or Six of them, with the Earls of *Worcester*, and *Wiltshire*, as Parliament
Procurators of the Clergy, or one of them; *John Bussy*, *Henry Grene*, was commit-
John Russel, *Robert Tey*, *Richard Chelmeswyck*, and *John Golofree*, Knights ted.
of the Parliament, or any Four, or Three of them.

By which Narrative from the Record, that Error of *Polydore Virgil* may be confuted, who makes the Duke of *Norfolk* to have first accus'd the Duke of *Hereford*, when it was the direct contrary way.

But to return again to the Record, after the Parliament was ended, both the Dukes appeared before the King at *Oswaldstrie* on the 22^d of *February*, when a further day was Assign'd to meet them at *Windfor*, viz. on *Sunday* the 28th of *April*. In [2.] the mean while, it was advis'd [2.] For want
and agreed by the King, and all the Lords and Knights abovesaid, on of other
the 19th of *March*, that the determination of this Difference should be Proofs, the
according to the Law of *Chivalry*, if other sufficient Evidence or Proofs King orders
could not be found for the ending of it by ordinary course of Law; that the deci-
but no further Proofs being produced by either of the Parties, who sion of this
now appeared on the Day prefixed, at the Place last mention'd, to re- Quarrel, shall
ceive the King's Judgment therein. Hereupon, according to the late be by Com-
Resolution at *Oswaldstrie*, He Ordain'd, that since other sufficient Proofs bat.
could not be found for determining this Difference; &c. it should be decided by single Combat at *Coventry*. So on Monday the 29th of the said Month of *April*, they both appearing again before the King, Battle or Duel was appointed between them, according to the Advice and Opinion of the Dukes, Earls, Barons, Bannerets, &c. there in great numbers Assembled for this Cause, together with all those that had the Authority of Parliament committed to them, where the former Judgment of the King, and His Council, was again confirmed.

But [3.] to leave the Record for a time, it may not be an un- [3.] The
pleasant digression to the Reader to relate the Chief Circumstances of form and
this Combat between these two powerful Peers, since it will shew us manner of
the great State and Formality that was then used in that Antient way their per-
of Tryal by Battle. The King and all the Lords being now arrived at forming this
Coventry, each of the Lords who were to be the Combatants, being Combat.
Attended with a Splendid and Numerous Retinue, appeared on the Day appointed; the Duke of *Albemarl* was *pro Tempore* made *High-Constable*, and the Duke of *Surrey* Lord-Marshal, who came to the Lifts most Honourably waited on by many Followers in Rich Liveries, suitable to the Greatness of their Qualities, each of their Servants carrying Tipstaves for clearing the Field. There the Duke of *Hereford*

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as Challenger, first Mounted on a *White Courser*, in Caparisons of *Green and Blew Velvet*, Embroider'd thick with *Swans and Antelopes*, Armed *Cap-a-pee*, with his *Sword* drawn, approached the *Lists*, of whom, the *Marshal*, demanding *who he was*, receiv'd this Answer. *I am Henry of Lancaster Duke of Hereford, that am come hither to my Devoir, against Thomas Mowbray Duke of Norfolk, as a false Traytor to God, the King, the Realm, and me; and then taking his Oath that this Quarrel was true and just, desired Leave to enter the Lists; which being granted, he put up his Sword, pulled down his Beaver, Sign'd himself on the Forehead with the Cross, took his Spear, and passing the Barriers, dismounted, and sat down in a Chair of Green Velvet, placed in a Travers of Green and Blew Velvet at one end of the Lists.*

Then King *Richard* enter'd the Field with great Pomp, accompanied with the *Earl of St. Paul*, who came out of *France* on purpose to be a Spectator of this Combat; and attended with most of the Nobles of *England*, and a Guard of Ten Thousand Men in Arms, to prevent any sudden Tumult or Disorder. His Majesty being Seated in a Chair of State, one of the Kings at Arms made *Proclamation*, that none but such as were appointed to Marshal the Field, should touch any part of the *Lists* upon pain of death; which being ended, another Herald Proclaim'd, *Behold Here Henry of Lancaster Duke of Hereford, Appellant, who is entred into the Lists, to do his Devoir against Thomas Mowbray Duke of Norfolk, upon pain of being counted False and Recreant.*

Immediately upon this, appeared the Duke of *Norfolk*, bravely Mounted, his Horse Barbed with *Crimson Velvet*, Embroyder'd with *Lyons of Silver*, and *Mulberry-Trees* proper, and having taken the like Oath before the *Constable*, and *Marshal*, that his Quarrel was Right and Just, he entered the Field, crying aloud, *God Aid the Right*; and then lighting from his Horse, plac'd himself in a Chair of *Crimson Velvet*, opposite to his Antagonist, at the other end of the *Lists*; the *Marshal* viewed their Spears, to see that they were of equal length, and then he deliver'd one of them to the Duke of *Hereford*, and sent the other by a Knight to the Duke of *Norfolk*. This done, *Proclamation* was made for them to prepare for the Combat. Upon which, the Dukes instantly mounted their Horses, closed their Beavers, casting their Spears into their Rests, and then the Trumpets sounding, the Duke of *Hereford* Spur'd his Horse forward, but before he of *Norfolk* could advance, the King cast down His *Warder*, and the [1.] Heralds cried, *stay, stay*. Then the King causing their Spears to be taken from them, they returned to their Chairs, whilst He retired to Council, to Debate what was fit to be done in so weighty a Cause. Where after two Hours Debate, their Doom was agreed upon without Fighting; and one Sir *John Bouray*, by the King's Command, after Silence was made, read their Sentence, which was thus. That forasmuch as the Dukes *Appellant*, and *Defendant*, had Honourably appear'd in the *List-Royal*, and were not only ready, but forward to entertain the Combat, therefore it being an Affair of great Consequence, for avoiding the effusion of *Christian Blood*, the King by the Advice of His Council had decreed, that *Henry Duke of Hereford* should within

[1.] The King stops the Combate, and taking the Matter into his own hands, orders them both to be Banish'd.

Fifteen days depart the Realm, not to return within the space of Ten Years, on pain of death, without the King's Special License. And after a Second Proclamation, Sentence of Banishment was also read against the Duke of Norfolk, but with these several Aggravations. *First*, That the same was for Life; *Secondly*, That the Cause thereof was expressed to be, for having uttered Seditious Words, whereof he could not clear himself; and *Thirdly*, it was added, as part of his further Punishment, that the King should receive the Revenues of His Lands, until He were satisfied all such Sums of Money, as the said Duke had taken out of the King's Coffers, on pretence of Paying the Garison of Calais.

Then [1.] another Proclamation was made, that no Person from thenceforth should presume to Petition or Intercede with the King on the behalf of either of the said Dukes, to alter this Sentence, on pain of His Majestie's high displeasure; which being so declared, the King called them both before Him, and took of them a Solemn Oath, that they should never Converse together beyond the Seas, nor willingly come into each other's Company. This is the Account our Historians give of the Issue of this Affair.

But the [2.] Record above cited is very short in the Relation of it, and only sets forth, that the King of His especial Grace, and as his Rightful and Sovereign Lord, took the Battel into his own hands, and by full Advice, Authority and Assent of Parliament (that is, of the Committee of Lords and Commons, to whom their Power was then devolved) Ordain'd and Adjudged for the Peace and Tranquility of Him, His Kingdom, and Subjects, and to eschew Debates and Troubles, particularly between the said Dukes, their Friends, and Well willers, that the Duke of Hereford should leave the Kingdom for Ten Years, and be gone within eight days after the Feast of St. Edward the Confessor, or 13th of October, upon pain of incurring Treason by Authority of Parliament. It was also Ordain'd by the said Authority, that the Duke of Hereford should not come into the Company of Thomas Duke of Norfolk, nor of Thomas Arundel late Archbishop, nor send nor cause to be sent, nor receive nor cause to be received, any Message, or other thing to or from either of them.

Then follows also the rest of the Proceedings against the Duke of Norfolk, whereby we may judge of the [3.] Reasons why the Sentence was more severe upon him than the Duke of Hereford, (tho' certainly one of these Judgments must have been unjust) for it was then declared to the said Duke, That forasmuch as on the 29th of April, at Windsor, in the Twenty first Year of the King, he had Confessed certain Points of the Appeal or Schedule abovesaid, which he had denied at Oswaldstre on the 23d of February before, which were very likely to have bred great Troubles in the Realm, therefore the King desiring as a Just and Rightful Lord, to Punish all such as were the Authors of such Troubles and Debates; and also willing to avoid the Occasions of them, Adjudged and Ordained by the same Advice, Authority and Assent of Parliament, that Thomas Mowbray Duke of Norfolk should avoid His Realm for term of Life, and that he should depart out of the Kingdom by the 20th of October next coming, and remain either in Bohemia, Germany, Hungary, or in some

[1.] No Person to intercede with the King in their Favour.

[2.] *Placit. Coron. in Parl.* *ib.*

[3.] *ib.* The rest of the Sentence against the Duke of Norfolk, and the Reasons of it.

Anno Dom. 1398. other parts of Christendom, upon pain to incur Treason by Authority
[1.] He is not during his Banishment to converse with the Arch Bishop, or the Duke of Hereford.
[1.] He is not during his Banishment to converse with the Arch Bishop, or the Duke of Hereford.

And [2.] it was further Ordained by Authority of Parliament, as above said, that if either of the Dukes, or any other, do procure any thing to be done against the least Point in the Ordinance, or what was done on the 16th of September, shall incur the pain of Treason, as if it had been done against any Ordinance of the Parliament began at Westminster, and Adjourned to Shrewsbury; or if they, or any other for them, should seek for any manner of Pardon, or License to return home, they were to incur the same Pain, by the same Authority.

Then [3.] follows in the same Record, the rest of the Proceedings of this Committee of Parliament, which were very High and Arbitrary, viz. That on Tuesday the Morrow after the Feast of St. Edward, being the 14th of October next following, the King, with the Dukes of Lancaster, York, Albemarle, Surrey, and Exeter; the Marquess of Dorset, the Earls of Marche, Salisbury, and Gloucester; John Buffy, Henry Green, and John Russel Knights, being again Assembled, by Vertue and Authority to them committed in Parliament at Shrewsbury, made certain [4.] Ordinances and Statutes, Five whereof are Printed in the Statutes at Large, the last whereof relating only to our purpose, and varying somewhat from the Roll, I have here added to it what was wanting, viz. That the King on the Thursday last mention'd, by the same Assent of the Lords, and Knights of Counties, so Assigned by the same Authority of Parliament, doth Ordain that every Person that procureth or endeavours to Repeal or Reverse any of the Statutes or Ordinances made by the King, with the Assent of the said Lords and Knights so Assigned as above said, and that being duly proved in Parliament, shall be Adjudged, and have Execution as a Traytor to the Kingdom, in like manner as they which persue or procure to be Repealed the Statutes and Ordinances made during the time of the said Parliament.

After this Provision was made for the sure keeping of the Statutes and Ordinances Enacted by the King, with the Assent of the Lords and Knights Assigned by Power and Authority of Parliament, the Oath of the Bishops, when they received their Temporalities, as also of the Temporal Lords, when they had Livery of their Lands and Tenements, were enlarged, with these Additions. That of the Bishops was as follows.

ib. N. 85.
All Bishops when they shall receive their Temporalities, and Lords, when they have Livery of their Lands, are enjoyn'd to take an Oath to observe all the Statutes of the last Parliament.

YOU shall Swear, that well and truly you shall hold, maintain, and stand to, without fraud or Deceit, all the Statutes, Establishments, Ordinances, or Judgments made and rendred in the Parliament Summon'd and Begun at Westminster, on the Monday next after the Exaltation of Holy Cross, in the Year of the Reign of our Lord King Richard II. after the Conquest Twenty One, and from thence Adjourned to Shrewsbury, to the Quindene or fifteenth Day after
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St. Hillary,

St. Hillary then next coming, and there ended. And also all the statutes and Ordinances made after the said Parliament by the King, and Lords, and Knights of Shires, coming for the Commons to that Parliament, without going or doing to the contrary of any of them, or the Dependants on, or Parcel of them; nor that you will ever Repeal, Revoke, make Void, Reverse, or Annul, nor ever suffer them to be Repealed, Revoked, Cassated, made Void, Reversed, or Annulled, so long as you live, saving to the King, His Regalty, Liberty, and Right of His Crown.

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To the Oath of the Temporal Lords, was this further Addition,
Viz.

YOU shall Swear, that you will never suffer in time to come, any Man living to do any thing contrary to any of the Statutes, Establishments, Ordinances and Judgments abovesaid, nor any Dependents on, or Part of them. And if any one shall so do, and be thereof duly Convinced, you shall use your utmost Power and Diligence, without fraud or Deceit, to Prosecute him before the King, and His Heirs, Kings of England, and cause him to have Execution, as an High Traytor to the King, and Kingdom; Saving to the King His Regaltie, Liberty and Right of His Crown.

ib. N. 87.
An Addition
to the Oath
taken by the
Temporal
Lords.

I have no more at present to add concerning the Two Unfortunate Great Men above-mention'd, but only that the Duke of *Norfolk* not long after in great grief and discontent went into *Germany*, and from thence to *Venice*, where in a short time he died, unlamented by any either at Home or Abroad, leaving the Character of a Cruel, False and Unconstant Person.

And [1.] it is very observable, that the Sentence of his Banishment was Pronounced on the very day Twelvemonth on which the Duke of *Gloucester* had by his Order been Murdred at *Calais*; so just sometimes is the Divine Vengeance, not only in Revenging ill Actions, but causing the Punishment to be attended with such Circumstances as may make the World take notice of it.

[1.] T. W:
An observable
Judgment
upon him.

The Duke of *Hereford*, at his taking leave of the King at *Eltham*, behav'd himself so Respectfully, and bore his Sentence with so much Unconcernedness, that His Majesty was then pleased to declare, He would abate Four Years of his Exile; yet could not that pacifie the Murmurs of the People, who could not be perswaded that there was any just Cause for his being Banish'd at all; Exclaiming, *That it was against the Law of Arms, the Custom of the Realm, and all Justice, that he should be Exil'd, who had so Honourably offer'd to maintain his Appeal, according to the Law of the Field.* So he left the Kingdom, and directed his Course to *Paris*, where he was kindly received by the *French King*, and found such Favour in that Court, that he was presently offered in Mariage the only Daughter (then a Widdow) of the Duke of *Berry*, that King's Uncle; but King *Richard* having notice

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thereof, used all the means he could to put a stop to that Affair. And to that end, He sent the Earl of *Salisbury* His Ambassador to the *French* Court, who, by representing the Duke of *Hereford* as a Person Guilty of Trayterous Designs against his Prince, so that He would never permit him to return, wrought so much upon the *French* King, and His Uncles and Brothers, that they resolved the Match should proceed no further, and thereupon they made the Duke acquainted with it, who highly resented the Affront and Injury King *Richard* had done him; but this did not fall out 'till the next Year after the death of the Duke of *Lancaster*, tho' not to break the thrid of the Story, I relate it here. But we shall now return to *England*.

As to the *Scotish* Affairs, At *Handenstank* upon the Borders, on the 26th of *October* this Year, Commissioners for both Nations met; for *Scotland*, Sir *William Bortwick*, Sir *John of Remorgny* Knights, and *Adam Forster* Esquire: For *England*, *John Bussy*, and *Henry Green* Knights, *William Ferriby* Clerk, and *Lawrence Drew* Esquire; their Business was to take care of the Release and Exchange of such Prisoners that had been taken on both sides since the Truce of *Leulingham*, in the Year 1389, and to Regulate the Practices of the Borders on both sides, and secure them from Rapine, Thefts, Robberies, Burnings, and taking and carrying away Prisoners into either Country during the time of the late Twenty Eight Year's Truce between *England*, *France*, and *Scotland*, which was effectually done in Eleven Articles; The Instrument it self under the Seals of the *Scotish* Commissioners, in their old Dialect, remains with the Under-Chamberlains in the *Exchequer*, in a little Box, Tit-led *Scotin* on the outside.

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[1.] T. W.

A Prodigy of a River near *Bedford*, that became dry on the sudden.

This Year our [1.] Historian begins with a strange and unusual Prodigy, of a deep River, running between the Villages of *Suelleston*, and *Harewood*, near *Bedford*, that stopt its Course on the day of our Lord's *Circumcision*, and for the space of Three Miles remain'd dry, without any Visible or Natural Cause to be given for it, as I can find. This was afterwards Interpreted as a Prognostick of that General Defection of almost the whole Kingdom from King *Richard*, which happen'd before the end of this Year.

About *Candlemas* following, *John* Duke of *Lancaster*, the King's Uncle, deceased, and was Buried in the Cathedral Church of *St. Paul's*, where his Tomb remain'd, (tho' somewhat defac'd) 'till the ruin of that Church by the late General Conflagration in the Year, 1666.

[2.] The De-

cease of the Duke of *Lancaster*, with his Character.

The [2.] Character given of this Prince by our Historians, speaks him to have been a Man Prudent and Wary in his Actions, an Approver of Safe Councils on good Reasons, rather than Fortunate Exploits with Hazard: One that was neither Negligent, nor Ambitious of Glory, and therefore deported himself towards the King his Nephew, in Terms Honourable, and Respective enough for a Moderate Prince, but not so much as the immoderate desire of Arbitrary Power in the King his Nephew, joyn'd with depraved Manners of the Court, might require. But it was evident how Compliant this Prince in his declining Years was forced to be; when in this, the very last Year of his Life, He was made to joyn with the declared Enemies of his Family, in that unjust Sentence passed upon the Duke of *Hereford* his Son, who immediately upon the death of his Father, ought to have Inherited,

rited,

rited, not only his Title, but also his vast Estate, had not the King, jealous of such great Power in so near a Relation, so justly and highly provoked, taken care, tho' with greater injustice, to prevent it.

For [1.] on the 8th of March, the Commissioners, or rather *Junto*, that had the *Authority of Parliament*, met again at *Westminster*, where they declared, that *Henry Duke of Hereford*, after the Judgment given against him at *Coventry*, had procured Letters Patents from the King, that he during his Absence, might by his Attorney, Sue and have Livery of any Lands descended to him. and have his Homage respited 'till his Return; which Letters Patents were declared to be against Law. Whereupon the King, by Advice and Assent of the said Committee of Parliament, Revoked those Letters Patents, as also the like made to the Duke of *Norfolk*.

Nor [2.] was the King and Committee above mention'd contented with what they had done against the now Duke of *Lancaster*, but Proceeded most severely against one *Henry Bowet* Clerk, who had prosecuted this Business on his Behalf. For on the 23d of April following, they being then Assembled at *Windsor*, he was brought before them, where it being shewn to the King, that the said *Bowet* had been the Contriver and Manager of that Petition, upon which the said Letters Patents had been granted; therefore he was also by the said Committee, which had the *Authority of Parliament*, adjudged a *Traytor*, and to be Drawn, Hanged, Headed, and Quartered; and all his Lands and Tenements, Goods and Chattels to be Forfeited. But because he was the King's Chaplain, He Pardon'd the Execution of the Judgment, and Granted him his Life, with this *Proviso*, That he should be Banish'd *England* for ever; than which Judgment, nothing could be more Arbitrary and Unjust, since the King being backed by this Committee, now took upon Him to declare an *Innocent Act*, performed by a Lawful Attorney, on the behalf of one that had a just Right, to be *High Treason*, which was no Crime at Common Law, nor by any Statute. But as the new Duke of *Lancaster* could not but highly resent this Arbitrary Proceeding, so there not long after happened an Accident, which gave him an Opportunity sufficiently to revenge it: But of this you shall hear more by and by.

In the mean while, the [3.] Laws and Liberties of *England* lay in a dangerous and expiring Condition; for the King having thus dispatched the Duke of *Gloucester*, and the rest of the Noblemen that oppos'd Him, and being now rid of His Uncle the Duke of *Lancaster* by Death, and of his Son by Banishment; His only remaining Uncle the Duke of *York*, being an easie and quiet Prince, more addicted to his Pleasures than Publick Business, and being also much Govern'd by his Son the Duke of *Albemarle*, he was so far from opposing, that he rather seem'd to Countenance the King's late Actions, by Voting with the present standing Committee of Parliament. So that the King now looking upon Himself as *Hors-du-page*, and free from any Controul, abandon'd Himself to Sloth, and lay plung'd in the lost but destructive Charms of Pleasure; by whose Example, many of the Nobility gave themselves to Ease and Luxury, whereby Cowardice and Effeminacy crept in, and Shipwreck was made both of Manhood, and Reputation.

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[1.] Placit.
Parl. 21 Rich. 2
ut supra.

[2.] Ib.

They likewise
declare the
Duke's Attor-
ney who had
obtain'd those
Letters Pa-
tents, guilty of
Treason.[3.] The
dangerous
Condition of
the Liberties
of *England*,
thro' the
King's Arbi-
trary Govern-
ment.

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[1.] T. W.
The sad Con-
dition of Af-
fairs both at
Home, and
Abroad.

As [1.] for the Publick Affairs both at Home and Abroad, they were in a Condition suitable to such Managers; for we learn from the Writers of those Times, that they had been long Biassed, rather by Private Respects, than Publick Interest; which made the Nation decline both in Riches, and Honour. So that all things being out of order, the Commonweal seem'd running apace into inevitable Ruin; for the Northern Countries were by frequent Plunderings, and ill-kept Truces, wholly Impoverish'd by the *Scots*, who had taken several Important Posts, and wasted all those Parts with Slaughter and Devastations. Upon the Seas the Merchant's Ships were often Surprized by the *French*; and the King's Hereditary Dominions in *France*, reduced to a narrow compass, many Strong Holds having been lost by Negligence, or sold by Treachery. For tho' Forces were often sent over for their defence, yet it was either in such small Quantities, or at unseasonable Times, and so ill Accommodated, or under such indiscreet Conduct, that they were occasions rather of Loss, than Profit; Affairs being managed by such, as neither Nature had designed, nor Education prepared, nor Experience qualified for *Politicians*; but Corrupt or Ignorant Ministers by Flatteries and base Arts Swayed in the King's Affections, and dispos'd of all things at their Will and Pleasure; keeping Him as it were besieged, from any better Advice; the Profits and Revenues of the Crown, nay, of the whole Kingdom, was let to Farm to certain Favourites, who cruelly racked and oppressed the Subjects.

[2.] *Id ib.*
Great Sums
of Money ex-
torted by
Loans, with-
out any Pay-
ment.

And [2.] as an Instance of this, great Sums of Money were by new found and unwonted Means, every day rather extorted than borrowed from all sorts of People, whereof no Advantage accrew'd to the Kingdom, only the King's Private Pleasures were maintain'd at an Extravagant Rate, and unworthy Favourites Advanced. To which we may add, that the King was so exceeding Liberal, or rather Prodigal, that He was forced to Borrow and Extort Money from many Persons to supply this vain lavish Humour; undoing many without Cause, to enrich a few without desert. Over and above *Tenths* and *Fifteenths*, and other usual Taxes, which were sometimes gathered twice in a Year, other strange Impositions were devised and put in Practice; for He had often Extorted great Sums from the People, under the Colour of *Benevolence*, besides what was borrowed upon *Privy-Seals*; so that no Man of Ability could escape those *Loans*, tho' of these, seldom any re-payment was made.

[3.] *Id ib.*
*Cron. de Lam-
beib.*

The King
Charges 17
Counties with
Treason, for
assisting the
Duke of *Glou-
cester*.

But to add to all former Oppressions, [3.] the King had not long before Charged no less than Seventeen whole Counties with *High-Treason*, for taking part against Him with the Duke of *Gloucester*, and the rest of the Lords of his Party, above Ten Years since, when they came to *Haringay-Park*: And tho' all those Actions had been Pardon'd by Act of Parliament, yet He now threatned to spoil and destroy them, as Publick Enemies, unless they would entirely submit themselves to His Pleasure. And having thus terrified them, He sent certain Commissioners, both of the Bishops and Lords Temporal, to all the Clergy, Noblemen and Gentlemen of the said several Shires, to let them know His heavy displeasure; and that without due acknowledgment of their Offence, and submission to His Will, He could not receive them into His Grace. Whereby being thus grievously threatned, they were prevail'd upon to own themselves Offenders under

their

their Hands and Seals, by Sealing certain Blank Charters, according to the will of the King's Council that drew them. And no sooner was this obtain'd, but they lying at the King's Mercy, were forced to pay great Sums of Money for the Redemption of their Lives and Estates; whereby many of them were so Impoverish'd, that they were not able to subsist; thus all sorts of People were made to suffer. But the King had either forgot, or perhaps was ignorant of that Sentence, *Timeat ille quem omnes timent.* And further still, even to make Conscience it self accessary to Slavery, New Oaths were Impos'd, not Warranted by Law. For the Sheriffs of all the Counties through the Kingdom were also forced to take an Unusual Oath, to wit, that they would obey all the King's Commands, whether under the Broad Seal, Privy-Seal, or Signet; and that if they knew any Person in their respective Baylywicks, that had spoke any thing to the scandal or disgrace of the King, they should seize all such, and put them in Prison, of what Degree or Condition soever they were; by which means divers well-meaning Men, being accused for Words, and brought before the Constable, and Marthal, were forced to confess themselves Guilty, or else to undertake the Combat or Battel against their Accuters, who were Young Lusty Fellows, when the Accused were perhaps Aged and Weak.

The King bearing so heavy a hand over His People, it was no wonder if they proved without Duty or Affection towards Him, when He stood most in need of them; for He was indeed a Prince of no great Judgment, and no good Concealer either of His Vices, or His Passions, supposing there was no more required in a King, than to appear Terrible to His People; whereby He became so generally hated, that it drove a great many to Rebel on the first Opportunity, as being resolved rather to run the hazard of a speedy Ruin, than to languish under a miserable Slavery.

This caused several of the [1.] discontented Nobility and Gentry to make some Private Overtures to the Duke of Lancaster, (being then in France) desiring his speedy return into England; Remonstrating that as well for the Publick Good of the Realm, as for their own particular Safeties and interest, they must use Force to redeem and rescue themselves from these intollerable Oppressions; and therefore Solliciting him that he would but become the Head, and they would furnish the Body of an Army, and that a Powerful one too, whenever he should Land; promising to adventure their Lives and Fortunes in this Quarrel; yet so, that the Danger should be common to them all, but the Glory and Advantage should be chiefly his own.

The Duke received these Addresses at first with great Precaution, and a seeming indifference, as if he were loth to hearken to their Proposals; but whilst he remain'd in this uncertainty what Course to take, he was wrought upon, and at length settled in his [2.] Resolutions, by the Persuasions of Thomas Archbishop of Canterbury, who about this time came to him in the disguise of a Fryar, and satisfied him, that King Richard was so hated by the People of England, that they would take the first Opportunity to join with any one that would espouse their Interest against Him.

Anno Dom.
1399.

[1.] Froiss.
Vol. 4. Cap.
104.
Several of the
discontented
Nobility pri-
vately invite
the Duke of
Lancaster to
come home to
redress their
Grievances.

[2.] The
Duke is en-
couraged to
undertake it,
by the per-
suasions of
the Archbi-
shop of Can-
terbury.

Anno Dom.

1399.

[1] Froiss. lb.
Cap. 105.

This is the Sum of [1.] *Froissart's* Relation concerning this Transaction, but that the Archbishop of *Canterbury* was sent (as this Author relates) to the Duke from *England*, by the General Consent of all the Estates of the Kingdom, is certainly a great Error in that Author, that Archbishop having been Banish'd by Parliament above a Year ago, and never returned since; neither could there be any Parliamentary Assembly held for that Purpose during the King's Absence in *Ireland*, all the discontented Party being so closely observed by the Duke of *Tork*, then Chief Governor of the Realm, and others the King's Minister's, that no body durst openly shew their dislike of the present Government, 'till the Duke of *Lancaster's* Landing here.

Yet this much all Author's agree in, that the Scene of these Transactions was at *Paris*, where *Froissart* supposes that the Archbishop met the Duke privately at his Lodgings; and this Author hath given us the several Speeches that were made on this occasion; for the Reality of which, tho' I will not pass my word, yet it is very likely that their Consultations terminated in a Result, that the Duke should adventure Himself over into *England*, and try his Fortune, upon the first convenient Opportunity, which soon presented it self the most invitingly that could be imagined. But to return to our own Affairs.

[2.] T. W.
Apod Neust.
The Earl of
Marche is slain
by the *Irish*;
whereupon
the King raises
an Army
to revenge
his death.

The [2.] Earl of *Marche*, who had been appointed by the King to be His Lieutenant in *Ireland*, exposing his Person too adventurously, was Slain in the beginning of this Year by the Wild *Irish*, which so exasperated King *Richard*, that He resolved in Person to Revenge his death. In Order to which, He raised a great Army, but not without a vast Charge, and grievous Oppression of His Subjects, not only in raising Money by unlawful Means, but taking up Carriages, Victuals, and other Necessaries, without Paying for them; which Arbitrary, rash and unadvised Practices, render'd Himself and His Government still more and more uneasie to His People. [3.] Then about *Whitsontide*, the King took Shipping for *Ireland*, accompanied with the Dukes of *Albemarl*, and *Exeter*, and divers of the Nobles, amongst whom was the Abbot of *Westminster*, now a Principal Favorite; but His Forces mostly consisted of *Cheeshire-men*, on whom He chiefly confided. He also took with Him the Sons of the Duke of *Gloucester*, and *Lancaster*, under pretence of teaching them the Rudiments of War; but indeed rather to secure them as Hostages, to prevent any Attempts that might be made by those of their Party in His absence. He also carried over with Him the Chief Reliques, with Plate and Jewels of the Crown that were in His Treasury; as if He had design'd (as in the event it effectually proved) to have taken a final leave at once, of both His Kingdom and Dignity here in *England*.

[3.] T. W.
*Hist. ad hunc
An.*
He goes for
Ireland, accompanied
by
all his Favourite.

Besides these General Discontents of the People, occasioned by the former ill Conduct and Oppressions of Corrupt Ministers of State, He just upon His departure, stumbled upon another Error in Politicks; for being at *Bristol*, ready to put to Sea with a great Fleet, it was suggested to Him, that *Henry Piercy* Earl of *Northumberland*, with other his Partisans, intended some disloyal Attempt, and therefore did not tender their Service in this Expedition. Whereupon He Commanded the said Earl, by a Pursevant sent on purpose, forthwith to repair to Him with what Forces he could raise. Whereunto, the Earl by a Letter return'd an Excuse, instead of a Compliance; intreating His

Majesty to consider how little necessary they would be for the *Irish* Anno Dom. 1399. Service, and indeed dangerous to the whole Realm, to draw Men from such remote Places, in regard those Rebels were neither so many, nor so mighty, but that the King had already sufficient Forces to reduce them to Obedience, and to disfurnish the *Northern* Parts of their Strength, would but give an Opportunity to the *Scots* to Invade us; and therefore beg'd His Majesty, that He would be pleased in such a juncture to excuse him from attending. This Answer the King interpreted as an Affront to His Authority, and therefore in an unadvised Heat, Proclaims the Earl, and all that should take part with him, *Traitors*, and orders all their Lands and Goods to be seized to His Use. The Earl resenting this disgrace, and forced (as it were by Necessity) does then in earnest make good the Information, by standing upon his Guard, or rather in a posture of open Hostility.

In the mean while, [1.] the King Landed at *Waterford*, and immediately after His Arrival, marched from *Dublin* against the *Irish* of *Ulster*, and got many little Victories in several Rencounters He had with them; in all which, the King is said to behave Himself with great Courage and Resolution. And these Petty *Irish* Princes were so terrified with the Force of His Arms, that they sent Messengers to Him to beg His Pardon, and sue for Peace, which they at length obtain'd, tho' with some difficulty. But these inconsiderable Triumphs cost King *Richard* dear in the Sequel; for whilst He is thus engaged, and absent from His discontented Kingdom of *England*, the Duke of *Lancaster* thinks it the most proper time to put in Execution what he and others his Confederates had been so long Consulting of. Wherefore after the dispatching some of his trusty Friends over, to get those he had here to provide Arms, with all other Necessaries against his Arrival, he Addresses himself to the *French* King with a Complement, that he intended to pay a Visit to his Kinsman the Duke of *Bretagne*, and therefore desired His Majestie's Letters of safe Conduct; which being granted, he there very privately levied a few Soldiers, with whom, having hired Three Ships of the Duke of *Bretagne*, he put to [2.] Sea for *England*, accompanied by the Archbishop of *Canterbury*, and his Nephew, Heir to *Richard* late Earl of *Arundel*, the Lord *Cobham*, Sir *Thomas Erpington*, and Sir *Thomas Ramstone*, Knights, with some other Gentlemen, his whole Retinue not consisting of above Eighty Persons; so that 'tis hard to judge which was the greatest Wonder, that he durst attempt, or that he did succeed in his Design with so inconsiderable a Company. But his Confidence was not so much in those he brought with him, as in the strength he hoped to find here, relying altogether on the Favour and Assistance of the Common People, and Gentry, whom he knew to be generally discontented, and eager to change their present Governors, for any that would but promise them to make their Condition more easie for the future.

Yet the Duke was too Wise and Cautious to push things beyond all possibility of a Retreat; and therefore did not presently Land, but lay [3.] Cruising up and down, sometimes appearing on one Coast, and sometimes on another, that he might the better discover how the Inclinations of the People stood towards him, and what Forces were ready either to receive or resist him. But at last being satisfied with what

[1.] *Annal. Hib.*
The King Marches against the *Irish*, and at last forces them to submit, and beg pardon.

[2.] The Duke of *Lancaster* makes Preparations in the mean while to come over into *England*. He takes Shipping with a small Company.

[3.] The Duke after cruising some time about the Coast, lands at *Ravenstpur*.

Anno Dom. what he observed, he put on Shoar without any opposition, about 1399. the beginning of July, at Ravenspurre in *Torkshire*, with no more than Twenty Lances. tho' he might have had a greater Force from the Duke of *Bretayne*; so much did he confide in the Justice of His Cause, and the Favour of the People. Yet he did not then make any Pretensions to the Crown, but only gave out that he came to regain the Dutchy of *Lancaster*, and the rest of his Lawful Inheritance, which all the Nation knew was wrongfully detain'd from him, and so hoped they were the more ready to pity and favour him in a Cause wherein he had received so palpable an Injury from the King.

[1.] *Id ib.*

His [1.] Arrival was no sooner known, but there repair'd to him the Lords *Willoughby*, *Ross*, *Darcy*, and *Beaumont*; and shortly after at *Doncaster*, the Earl of *Northumberland*, and his Son *Sir Henry Percy*, with the Earl of *Westmorland*, and great numbers of the Gentry and Common People went in to him.

Intelligence hereof was soon convey'd to the Duke of *Tork*, the King's Uncle, and his Lieutenant during his absence, who thereupon calls together the Bishop of *Chester*, the Lord Chancellor *Scrope*, the Earl of *Wiltshire* Lord Treasurer, *Sir John Busby*, *Sir Henry Green*, *Sir William Bagot*, and *Sir John Russel*, Chief Councillors, and Confidants of King *Richard*, to Advise what was to be done in this dangerous Exigence of Affairs. Amongst these (whether designedly by some, or ignorantly by others I cannot say, but surely most perniciously for King *Richard's* Interest,) it was concluded to abandon *London*, and appoint the General Rendezvous for Raising Forces against the Duke to be at *St. Albans*. But when the Common People out of sundry Counties were drawn thither to be Muster'd, they openly declar'd they would not act any thing to the prejudice of the said Duke, who they affirm'd was unjustly expelled his Country, and unlawfully kept from his Inheritance.

[2.] *Id ib.*

Upon this the Earl of *Wiltshire*, with the rest of the King's Favourites flee to *Bristol*.

This [2.] Refusal of the Commons to Serve the King, was certainly the Ruin of His Affairs; whereupon the Earl of *Wiltshire*, *Sir John Busby*, *Sir William Bagot*, and *Sir Henry Green*, presently forsook the Duke of *Tork*, and fled to *Bristol*, intending to pass over into *Ireland* to the King: and it was time for them to ply to their Heels, for these Four were those, who had taken the Revenues of the whole Kingdom to Farm; and on that score, and other Grievances and Oppressions which they had committed, were become so odious to the People, that their very Presence turned away many of the Subjects hearts from their Sovereign, it being their Hatred against them, rather than any aversion to the King's Person, that caused this General Revolt.

The Duke of *Tork* seeing their Flight, and the Humour of the Generality favouring *Lancaster*, and loth to run the Adventure of an improbable Resistance, gave over the Cause, and laid down his Arms; and thereupon the rest of the Nobility either openly declar'd for the Duke, or secretly held Correspondence with him, resolving to swim with this violent Current, rather than at their own Perils to stem an impetuous Tide, which bore down all before it.

For no Snow-Ball could encrease faster by rolling, than the Duke of *Lancaster's* Forces were augmented by his March; insomuch that

they were quickly grown to Sixty Thousand Strong; with whose Assistance he resolv'd to push on his good Fortune, and so hastned with his Forces to *London*, that Possessing himself thereof, (being the Chief City of the Kingdom for Strength and Riches) he might best make the Seat of War there, and be the easiest accommodated both with Provisions, and Ammunition; but in his whole March he met with no Opposition, nor Hostility, but all along Gentlemen of the best Quality, out of Affection, Fear, or Hope of Reward, resorted to his Camp, and wherever he stayed, Rich Presents were made him, and his Army supplied with all Necessaries, even to superfluity; and particularly at [1.] *London*, he was received as in Triumph, with Statelý Shows, Solemn Processions of the Clergy, and loud Acclamations and Huzzas of the People.

Anno Dom.
1399.

[1.] He is received with great Joy by the City.

But he was more regardful of his Affairs than to stay long there, and therefore having fixed the Citizens firm to his Interest, and knowing all the danger that could now threaten him, must be from King *Richard's* speedy Return out of *Ireland*; to obviate that, and overtake the Fugitive Favourites, [2.] who were fled to *Bristol*, he with hasty Marches persued them thither, and finding the Castle Fortified against him, he assaults it so briskly, that in Four days time he forced it to a Surrender upon discretion; and taking therein the Earl of *Wiltshire* Lord Treasurer, Sir *John Busby*, and Sir *Henry Green*, he the very next day Sacrificed them to the importunate Rage of the incensed People, causing them all three to be forthwith Beheaded. But as for Sir *William Bagot*, he was got to *Chester*, and from thence passing over into *Ireland*, not only escaped the present Vengeance, but brought the King who was then at *Dublin*, the first News of this General Revolt, and the great danger He was in. But to proceed with the present Relation: This Execution of the King's Favourites and Chief Ministers, if it were not Just, was certainly very Politick; for partly because it was so grateful to the People, and partly because it excluded all hopes of Pardon, it became a great engagement to all the Duke's Followers, to adhere more firmly to him for the future.

[2.] T. W. He makes no stay there, but marches to *Bristol* against the Favorites, who are forced to Surrender it to him, and are presently Executed.

The Duke had now been six Weeks in *England*, and the whole Nation in effect submitted to him; during all which time, there was no News of King *Richard*; whether it were by reason of contrary Winds that hindred His coming over, as some write, or that on the first Advice He slighted it, according to the humour of some weak Spirits, who contemn Dangers remote, but are astonished at their nearer approach; however at last, when He saw in what an hazardous Condition His Affairs stood, He caused the Sons of the Dukes of *Lancaster* and *Gloucester* to be Imprisoned in the Castle of *Trim*, and determined forthwith for *England*. But the Duke of *Armarle*, His Principal Counsellor, persuated Him to stay 'till His Preparations were ready; which Fatal Council, as it was King *Richard's* ill Destiny to follow, so it proved His Ruin: yet He presently sent over the Earl of *Salisbury* to raise an Army in *Wales* and *Cheshire* against His Return, which He solemnly Promised should be within six days at furthest. The Earl so well employed his Care and Pains, that he had soon got together Forty Thousand Men; But the six days and more being elapsed, and the King not appearing, made them murmur, and suspect that He was

Anno Dom. dead, or come to some disaster. But the Earl still perswaded them to
 1399. have Patience some few days longer, which being likewise expired, and
 no Tidings of Him, they then in great discontent broke up, and retired to their respective Habitations.

[1.] T. W. At length Eighteen days after [1.] he had sent away the Earl,
 The K. lands the King took Shipping, attended with the Dukes of *Aumarle*, *Ex-*
 at Milford- *eter* and *Surrey*, the Bishops of *London*, *Exeter*, and *Carlisle*, and some
Haven, and others of the Nobility, and Landed at *Milford-Haven*, having about
 finding his Him a competent Number of *Cheshire* Men, whom He brought over
 Army dis- with Him, and from thence went on to *Caermarthen*, where He staid
 banded, knows some time to consider what Course it were best for him to take; but
 not what to do when he understood that the other Forces He expected to join him were
 Disbanded, and gone Home, and that most of His Castles and Towns
 had Surrender'd to the Duke of *Lancaster*, and the *Londoners*
 espoused his Interest; that the greatest number of the Nobility, and
 Commons almost in General took part with him, and especially that
 His Principal Councillors had lost their Heads at *Bristol*, He was so
 far from retaining the Magnanimity of a King, that He almost ceased
 to be a Man, and abandon'd Himself to [2.] Despair, perplex'd with
 [2.] He is uncertainties where to stay, or whither to go; being destitute both
 distracted by of Resolution, and good Advice from Others in such amazing Diffi-
 different culties, whereunto weak and uncertain Councils are still obnoxious;
 Councils. for whilst some Advised Him to march further into the Land before
 the rest of those Friends He had left fell from Him, alledging, *that*
Fortune favours bold Attempts; and in all Places He should find some,
 who out of Duty, or Affection, or for Pay, would follow His Stan-
 dard, which would be illustrated with the Majesty of His Person, and
 Guarded with the Right of His Cause; Others perswaded Him to go
 back into *Ireland*, or get over to his Father-in-Law of *France*, and
 thence to return when the Storm was over, and Himself better strength-
 ned. But the King rejected both these Councils, and taking a middle
 Course (which in Extrems of that kind is the worst) resolved to stay
 in *Wales*, to see to what head this humour would rise, whilst the few
 Soldiers He had brought over with Him, endeavour'd to encourage
 Him to venture a Battel, vowing they would live and die with him.

[3.] *Chron.* But this could not at all raise his drooping Spirits, for in [3.] the
de Lambeth. Night he stole away from his Forces, and with the Dukes of *Exeter*,
Pol. Virgil. and *Surrey*, the Bishop of *Carlisle*, Sir *Stephen Scrope*, and half a score
 The King more, went *incognito* cross the Country to the Castle of *Conway*, where
 steals from he was no sooner arriv'd, but the Lord *Thomas Piercy*, Steward of his
 his Forces, and Houshold, seeing his Master's Affairs in that deplorate State, or else
 goes to the in revenge for Proclaiming of his Brother the Earl of *Northumberland* a
 Castle of *Traytor* (as before was mention'd) did openly in the Hall of the
Conway. Castle, before all the King's Servants, break his *White-Staff* of Office,
 and forthwith repair to the Duke of *Lancaster*; and most of the
 Royal Retinue by his Example, dispersed and shifted every one for
 himself. Such uncertain Attendants are the common sort of Courtiers,
 who like Flies, leave the object that hath nourish'd them, upon the
 first Storm.

But it is time to look back and see what the Duke of *Lancaster* has
 been doing, since his coming to *Bristol*; where, upon Intelligence of
 Vol. III. King

King *Richard's* Arrival, he left his Uncle the Duke of *Tork* (who had now join'd him) and Marched at the head of his Troops to *Gloucester*, and from thence to *Rofs*, and so to *Hereford*, and there came in to him the Bishop of that See, and Sir *Edmund Mortimer*. On the Sunday following he went to *Leymster*, and there the Lord *Charleton* of *Powis* came to him; from thence he marched to *Ludlow*, and the next day to *Shrewsbury*, and thither came to him Sir *Robert* and Sir *John Leigh*, and other Persons of Quality, being sent from *Chester* to offer him their Service; as did also the Lord *Scales*, and the Lord *Bardolph* out of *Ireland*.

From [1.] *Shrewsbury* he went on to *Chester*, where he dispatch'd an Express into *Ireland* to fetch over his own Son and Heir, and likewise the young Duke of *Gloucester*, both whom King *Richard* had left in Custody there; and it seems their Keepers durst no longer detain them, after the Duke Commanded them from thence; for his Son soon after arrived here, but the other young Nobleman not coming with his Cousin, was unfortunately cast away at Sea. But now let us return to Matters of greater Importance.

As soon as King *Richard* arrived at the Castle of *Conway*, *John Holland* Duke of [2.] *Exeter*, his half Brother, offer'd to go to the Duke of *Lancaster* to *Chester*, to Treat with him on the King's behalf, and see whether he might safely deliver himself into his Power or not; and the day after, the Duke of *Surrey* thought fit likewise to ask the King's License to go to the Duke to make his own Peace, as also to intercede for the King, who presently gave him leave to go thither; but when he arrived, he was so far from making any Interest with the Duke, that he committed him close Prisoner to *Chester-Castle*; but as for the Duke of *Exeter*, he found a milder Treatment, being only detain'd a Prisoner at large; yet so, that he could not return again to King *Richard*, as he had promised.

Walsingham gives an Account of the coming in of both these Dukes to the Duke of *Lancaster*; but makes as if they had done it on purpose to desert King *Richard*; whereas by this Relation, which I found in a Manuscript in the Library at *Lambeth*, written by a French Gentleman who attended on King *Richard* into *Ireland*, and afterwards Accompanied him 'till he deliver'd himself to the Duke of *Lancaster*. It appears that the coming in of those two Noblemen was upon very good grounds; and since this French Writer was present with King *Richard* during the whole Transaction between him and the Duke of *Lancaster*, and is also more full in the particular Circumstances and Reasons of the King's so easily surrendering himself into the Duke's Power (as he did shortly after) then *Froissart*, who is as much mistaken in this Relation of these Transactions, as our own Writers are too short in them.

I shall therefore proceed with this Gentleman's Relation; who further says, That as soon as the Duke of *Lancaster* was assur'd that the King was arriv'd at *Conway-Castle*, he [3.] held a close Consultation with his two most intimate Councillors, the Archbishop of *Canterbury*, and Earl of *Northumberland*, how he might get the King's Person into his Power, and hinder his escape into *Ireland*, or *France*; in either of which Kingdoms, having the Sea open, he had as yet the Liberty to

[1.] *ib.* The Duke comes to *Chester*.
[2.] The Dukes of *Exeter* and *Surrey* go to the D. to Treat on the King's behalf, but are confin'd.
[3.] The Duke holds a Consultation how to get the King into his Power.

secure

Anno D.m. 1299. secure himself; whereupon the Archbishop of *Canterbury's* Advice was, that the Earl of *Northumberland*, as a Person on whose Promises the King could most rely, should be sent to him, to offer him Terms of Reconciliation with his Cousin the Duke of *Lancaster*, and to hinder him from any thoughts of going away with those few Forces he had there in Garrison, or to stand upon his defence; which Journey the Earl willingly undertook, with sufficient Forces for his Guard.

[1.] *Id. ib.*
The Earl of
Northumber-
land goes to
him with Pro-
posals of
Peace, if he
will surrender
himself.

In [1.] the mean while the King continued at *Conway Castle* in great Trouble and Suspence, because he heard nothing of his Brother the Duke of *Exeter*, during the eight days he had been gone from him. When the Earl of *Northumberland* was come as far as the River of *Conway*, and had set a Guard upon the Pass, he sent over a Herald to King *Richard*, to desire his *safe Conduct* to pass over to him, leaving his Forces behind; which the King having presently granted, he went to him, and being admitted into the King's Presence, his Demands on the behalf of the Duke of *Lancaster* were these. *First*, That a Parliament should be immediately Summon'd, which being Met, the Banishment of the Duke of *Lancaster* should be Revoked, and he to be restor'd to all his Estate. *Secondly*, That in this Parliament the Dukes of *Exeter* and *Surrey*, with the Earl of *Salisbury*, and Bishop of *Carlisle* should be Try'd for what they had acted against Law; as also all those who were guilty of Advising, or having any hand in the death of the Duke of *Gloucester*; and that if his Majesty would agree to these Proposals, and permit them to be transacted and dispatched in Parliament, he should then be restored to his former Power, and Royal Dignity; and the Earl further assured the King, that the Duke of *Lancaster* had Solemnly Sworn by the *Body of Christ* faithfully to accomplish all the said Particulars, and that he (the Earl) was also ready to do the same.

[2.] *Id. ib.*
The K. does
not give much
heed to his
fair Speeches,
yet is at last
perswaded to
accept of his
Proposals.

The [2.] King at first gave not much heed to his Fair Speeches, and said, He expected nothing but death, and that he would die like a Man, and defend himself as well as he could; yet hoped that his good Subjects, when they heard how much he was injur'd, would come in and assist him. But notwithstanding all this, the Earl of *Salisbury*, and Bishop of *Carlisle*, with other Knights and Gentlemen that were then with the King, seeing the desperate Condition of his Affairs, were not willing to carry things to that Extremity; and therefore Advised him to rely on the Earl's Oath upon the *Sacrament*, on the Conditions already proposed, which the King consented to, and the Earl took the Oath accordingly; tho' as it appear'd he never intended to keep it. This being perform'd, the King desir'd the Earl to go away before, and that he himself would follow him to *Rothland-Castle*, which the Earl agreed to; and passing over the Water to his Forces, that lay expecting his Return, he rode on four Miles forward, where he placed an Ambush behind a Rock, and lay there expecting the King's Arrival; who coming thither a few hours after, with a small Retinue of about Twenty Persons, and finding himself [3.] surrounded with so many Armed Men, and that he must be made a Prisoner, he was very much surprized, and said he was Betray'd; but seeing there was no way left to escape, he made great Complaints to those few that were about him. They were all very sorry that ever

[3.] The Earl
surprizes the
King by an
Ambush, at
which he is
much con-
tern'd.

they had Advised him to put such Confidence in the Earl, who nevertheless seem'd not at all concern'd; but coming up boldly to the King, with a great deal of outward Respect, said, that his Majesty need not be Alarmed to see so many Armed Men about him, since they were only for his Security, the Country being all up in Arms; and then he re-assured him by the same Oath he had already taken, that he would Conduct him safely to the Duke of *Lancaster*, without the least Injury to his Royal Person.

The [1.] King not being in a Condition to refuse his Offer, was fain to go with him to *Rothland-Castle*, which had been already Surrender'd to the Earl by the Governour, and Garison, in his March towards *Conway*, and that without so much as striking a stroke. Here the Earl took his leave of the King, to return to the Duke of *Lancaster*, who continued still at *Chester*.

But [2.] so soon as he heard by the Earl that the King was come to *Flint-Castle*, he was very well pleased, and thereupon drew out his whole Army, in order to march thither to take the King's Person into his Power; so the day following the Duke left *Chester*, and went towards *Flint* with all his Forces; in the mean while King *Richard* had none of any Quality left with him, but the Earl of *Salisbury*, and the Bishop of *Carlisle*, and Sir *Stephen* and Sir *William Fereby* Brothers, to whom he made sad Complaints of his calamitous Fortune, and too much Credulity; then after Mass, going upon the Walls to take the Air, he from thence espied the Duke of *Lancaster's* Army at a distance, marching along the Sands. Then the Archbishop of *Canterbury*, the Earl of *Ratland*, and the Lord *Thomas Piercy*, according to the Orders they had received from the Duke, rode on before to speak with the King, and prepare him for his coming. Upon their Arrival, His Majesty came down to them, and received the Archbishop with much respect, and they all fell down on their knees before him; then the King taking the Archbishop aside, had a great deal of Private discourse with him; but what it was, our Author does not tell us; tho' *Walsingham* makes no mention of this, but supposes the Archbishop to have accompanied the Earl of *Northumberland* to *Conway-Castle*, and that there the King offer'd them to Resign His Crown, provided He might have His Life saved, and an Indemnity for Eight Persons whom He should Name; all which seems not so probable as what our Author relates; but to return to our History.

When [3.] the Archbishop had settled Matters with the King, he with the rest of the Noblemen return'd to the Duke of *Lancaster*, to give him an Account what he had done; after their departure, the King went again upon the Walls, and renewed his Complaints to those that were about him, until the Earl of *Northumberland* was sent by the Duke (who was now very near the Castle) to assure him that he would not enter the Castle until after his Majesty had Dined; then the King sat down to dinner, and made the Bishop and Earl, and the rest of the Knights and Gentlemen that were there sit down at the Table with him, thanking them that they would thus venture their Lives for his sake. Whilst the King was at dinner, a great many Knights and Esquires of the Duke's Party pressed in upon them with much rudeness and indecency, casting out threatening Speeches, that all those who

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[1.] The King goes to Rothland-Castle, and from thence to Flint.

[2.] Id. Ib. The Duke Marches with his Army from Chester, to Flint-Castle.

The Archbishop of Canterbury, and other Noble men ride on before, to prepare the King for the Duke's coming.

[3.] Id. Ib. The Earl of Northumberland comes from the Duke with another Message.

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[1.] *Id. ib.*
The Author
is presented
to the Duke,
and kindly
Treated by
him.

Then [1.] after dinner the Duke of *Lancaster* being arrived at the Castle, and having drawn up his Men in excellent Order, our Author says that he himself, with two or three more of his Companions, were Presented to the Duke by *Lancaster* his Herald, who told him that they were certain *French* Gentlemen, whom King *Charles* had sent to attend King *Richard* into *Ireland* to see the Country. The Duke reply'd to them in *French*, that they need not be afraid, for upon *his word* their Lives should be safe, provided they would keep near to him, which very much rejoiced them; so the Duke entered the Castle all in Armour, except his Head-piece, and the King, with the Earl of *Salisbury*, and Bishop of *Carlisle*, came down from the *Tower* to meet him, and pulling off his Cap, began first in this manner.

[2.] The
Meeting of
the King and
Duke, and
what passed
between
them.

Cousin of *Lancaster* you are Wellcome; then the Duke thrice bowing to the ground, Reply'd, [2.] *My Lord the King, I am come sooner than you appointed me, and the Reason was, because the Common Fame of your People is, that You have for these One and Twenty Years Govern'd very ill, and Rigorously, of which they are not at all satisfied; but if it please God, I will help You to Govern them better for the time to come: to which the King only return'd, Fair Cousin, since it pleases you, it pleases Us too. These were all the Words they had together, without adding any thing to, or taking from them; for I (says my Author) stood by and heard them.*

[3.] *Id. ib.*
The Duke
takes no no-
tice of the E.
of *Salisbury*,
and why.

Then [3.] the Duke turn'd about, and spoke to the Bishop of *Carlisle*, and to the two Knights, but said not a word to the Earl of *Salisbury*; yet bid one of the Knights tell him, that since he had disdain'd to speak to him when he was at *Paris*, he need not wonder if he now took as little notice of him; at which Answer the Earl was much cast down, for he plainly perceived the Duke hated him mortally; then the Duke called out with an assuming Air to bring the King's Horses; upon which they immediately brought two little Nags, not worth forty *Franks*, and the King mounted one of them, and the Earl the other, and so they left *Flynt-Castle* about Two in the Afternoon.

[4.] *Id. ib.*
The King is
brought to
Chester, and
Lodged in the
Castle.

The [4.] King being come to *Chester*, was convey'd to the Castle with a great noise of Trumpets, the Common People following him with derision, and reproaches; he was there lodged in the *Great-Tower*, where he saw his Brother the Duke of *Exeter*, but durst not say much to him; so the King remain'd in close Custody with his Friends the Earl of *Salisbury*, the Bishop of *Carlisle*, and the two Knights above-mention'd. The Duke stay'd three days at *Chester*, and in the mean while held a Great Council, where they concluded that they had too many People, Thirty or Forty Thousand Men being enough to Conduct the King to *London*, and so the rest were dismissed.

The King is
like to have
made an ef-
cape, but is
taken.

As [5.] soon as they came to *Litchfield* the King had like to have escaped, by creeping out of a Window of a Tower into a Garden, where he hid himself, but was discover'd, and Villanously used, and brought back into the Tower; where he was afterwards kept by Ten or Twelve Armed Men, Watching constantly in the Room, to hinder the like Attempt for the future.

The same [1.] Author further relates, that before they came near the City of London, the Recorder, and many Knights and Esquires went to wait on the Duke of Lancaster, and desired him on behalf of the Commons of London, to cut off the Heads of King Richard, and all that were taken with him; but the Duke would by no means hearken to such a piece of Villany, but told them, *That their Request (if put in practice) would prove an everlasting Reproach to him, and all his Adherents; but he would carry them along with him to London, and then leave them to the Judgment of the Parliament.*

So soon as the Duke came to Town, he was received by all the Companies of the City in their Liveries, which made a Noble Show, the Common People making great Acclamations, crying, out *Long Live the good Duke of Lancaster, our Deliverer.* Then he caused the King to be safely Conveyed to the Tower; where the Royal Lodgings were provided for Him, but the Duke himself went to St. Paul's Church, and there said his Prayers before the High Altar; afterwards turning aside to his Father's Tomb (which was not far off, he there kneeled, and shed many Tears. And when he had so done, he went to the Bishop of London's Pallace, and there stayed six or seven days, and from thence removed to the House of the Knights of St. John of Jerusalem without the City, where he continued till the Parliament met: So far the Author hath Writ in Prose, the rest that follows is in Rhime, concerning the manner of the *Deposition* of King Richard, and the making Duke Henry King, with an Invective Song or Ballad against Him on that Subject, which I purposely omit, because I think this I have already given you, is sufficient to let you understand the Reasons of King Richard's so easily surrendring Himself, and the Circumstances of it; *Froissart's* Account of it being very false, as it is imperfect.

But to return to the Matter: It is very observable that the King having [2.] yielded Himself the Twentieth of August, being but the seven and fortieth day after the Duke's Arrival in England, He might well assume *Cæsar's* Motto, *Veni, Vidi, Vici*; for considering his Marches from Ravenspur in the North up to London, and from thence to Bristol, and so thro' Wales to Chester; a Man can scarce Travel over so much Ground in the space that he Conquer'd it: Nay so Indulgent was Fortune to him, that all the King's Jewels and Treasure which were deposited in *Holt-Castle* (amounting to seven hundred thousand Pounds) with all His Horses and Baggage now fell into his hands.

The King being thus secured in the Tower, the Duke of Lancaster lost no time, for he had already at Chester in King Richard's Name, caused [3.] Writs to be issued forth for Summoning a Parliament to be held at Westminster on the last day of September following; and in the mean time he Consults with his nearest Relations and Friends how to steer his Course, so as to bring his Designs to a lucky Conclusion, which had hitherto even beyond his Hopes been favour'd by Providence: In order to which, the [4.] Duke of York (who but a little before had been Governor of the Realm for the King, was now become his Nephew of Lancaster's Chief Director; and after divers debates propos'd it as very expedient, that King Richard should both voluntarily Resign the Crown, and also be solemnly Deposed by all the Estates of the Realm, for otherwise His Resignation would be imputed only to His

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[1.] *Id ib.*
The Recorder of London, and other Men of Quality meet the Duke on the way, and desire that the King and those that were taken with him might lose their Heads, but he refuses.

The Duke comes to Town, and is Joyfully receiv'd.

[2.] The wonderful success of the Duke of Lancaster.

[3.] *Rot. Claus.*
23 Rich. 2.
M. 3. Dors.
A Parliament Summon'd by the Duke of Lancaster, in the King's Name.

[4.] The Duke of York advises that King Richard should not only Resign the Crown, but also be solemnly Deposed, and for Fear, what Reason.

Anno Dom. 1399. Fear, and Deprivation only to their Force, whereof the one is always apt to move Pity, and the other to excite Envy: But if both concur'd, and His Desires agreed with His own Deserts, as being willing to forsake that which He is Adjudged worthy to Forfeit, then it will appear, that He is neither expelled His Kingdom by meer Constraint, nor leaves it without just Cause.

[1.] The King Signs the Renunciation of the Crown.

This Advice was generally approved of, and accordingly persued, a Solemn Renunciation being rendred unto the King, and by [1.] Him Signed on Michaelmas-day next following, being the day before the Parliament was to meet. The Words, Order, and Ceremony whereof, and of the Articles exhibited against Him, and His Deposition thereupon in Parliament, appear on the Records remaining in the Tower; Authentick and Attested Copies whereof are Printed in the end of the *Decem-Scriptores*, beginning at *Coll.* 2743. from whence the same are truly Translated, as follow.

The Title to this Record is thus.

[2.] Rot. Parl.
1 Hen 4.
m. 20.

At [2.] the Parliament holden at Westminster on the Feast of St. Faith the Virgin (or 6th of October) in the first Year of the Reign of King Henry the Fourth after the Conquest. Then follows the Process of the Renunciation of King Richard the Second, and likewise the Acceptance of the same Renunciation, with the Deposition of the same King Richard afterwards ensuing.

[3.] 16. N. 10.
The Process and manner of King Richard's Renunciation.

Be it remembred, that on Monday the Feast of St. Michael the Arch-Angel, in the Three and Twentieth Year of the Reign of King Richard the Second, the Lords [3.] Spiritual and Temporal, and other Persons of Note, that is to say, the Lord Richard le Scrope Archbishop of York, John Bishop of Hereford, Henry Earl of Northumberland, and Ralph Earl of Westmorland; the Lord Hugh le Burnel, Thomas Lord de Berkley Prior of Canterbury, and Abbot of Westminster, William Thyrning Knight, and John Markham Justices; Thomas Stow, and John Burbache Doctors of Law; Thomas de Erpingham, and Thomas Grey, Knights, William de Feryby, and Dionisius Lapham Publick Notaries, first deputed to the Act under-written, by the Assent and Advice of several of the Lords Spiritual and Temporal, and of the Judges, and others skilful, as well in the Civil and Common Law, as in the Law of the Realm, Assembled at Westminster in the usual Place of Council, did about Nine of the Clock come to the Presence of the said King, then within the Tower of London, and it being recited before the said King by the said Earl of Northumberland, in the behalf of all the rest before named, as aforesaid joined with him, how that the said King heretofore at Conway in North-Wales, being at Liberty, did promise unto the Lord Thomas Archbishop of Canterbury, and the Earl of Northumberland, that He would yield up and renounce the Crown of England, and France, and His Regal Majesty, for Causes of Inability, and Insufficiency, and that this He would perform in the best manner and form as the same could be done, and as Council Learned should best Order. The said King, before the said Lords, and others above-named, hereunto benignly Answer'd, That He would with effect accomplish, what before in that behalf He had Promised, but first desired

desired to have a Conference with His Cousin Henry Duke of Lancaster, and the said Lord Archbishop of Canterbury, before He fulfilled His Promise. Anno Dom. 1399.

Then the same day after dinner, the King much desiring, and long waiting for the said Duke of Lancaster's coming, at last he, with the Lords and others above-named, as also the Archbishop of Canterbury, came into the Presence of the said King in the Tower aforesaid, the Lords Roos, Willoughby, and Abergeny, and very many others being there likewise; and some time after the said King had discoursed with the said Duke of Lancaster and the Archbishop, then looking round him, with a seeming chearful Countenance; on those there present, the King said publicly before them all, that He was ready to make the Renunciation, as it had been already promised by Him. And it was told Him, that to save Him the [1.] Labour of Reading it with His own Mouth, He might, if He pleased, have it done by another; yet taking the Parchment, Schedule, or Instrument of Renunciation into His own hands, said that He Himself would Read it, and so He did distinctly throughout, and thereby Absolved all His Liege People, and Renounced, Receded, and Swore to the same, with other things then said and pronounced by Him; and did also Subscribe it with His own Hand, as is more fully contain'd in the said Schedule; in the following Form.

[1.] The King reads the Instrument of his Resignation himself.

The Resignation of Richard II.

In the Name of God Amen. I Richard by the Grace of God, King of England, and France, and Lord of Ireland, do Absolve the Archbishops, Bishops, and other Prelates of Churches, Secular, or Regular, of whatsoever Dignity, Degree, State or Condition they are, Dukes, Marqueses, Earls, Barons, Vassals, and Vassalors, and all my Liege-men whatsoever, Ecclesiasticks, or Seculars, of all the said Kingdoms and Dominions, by what Name soever they are known, from the Oath of Fealty and Homage, and other Oaths whatsoever to be made, and from all Bond or Tie of Legiance, Royalty and Dominion, whereby they have been or are in any manner Bound unto Me. And I do Free, Release and Acquit them, and their Heirs and Successors for ever from the said Oaths and other Obligations whatsoever. And I do dismiss them free, acquitted and discharged, as far as relates to my Person, as to the whole effect of Law which may follow from the Premises, or any of them. And I do freely of my own Accord, simply and absolutely, in and by the best Manner, Way and Form that I can, by these Writings Renounce and totally Resign all Kingly Dignity and Majesty, with the Crown, Dominion and Power of the said Kingdoms and Lordships, and all other My Dominions and Possessions any way belonging or appertaining unto Me, by what Name soever they may be called, within the aforesaid Kingdom, or elsewhere; and

Rot. Parl.
1 Hen. 4.
N. 10.

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all Right or Colour of Right and Title, Possession and Dominion, which at any time I ever had, now have, or by any means shall have in or to the same, or any of them; with all their Appurtenances or Dependencies; and also the Rule and Government and Administration of the said Kingdoms and Dominions. With all manner of meer and mixt Empire, and Jurisdiction to Me in the same belonging, and to the Name of King. and the Honour and Regality thereof, purely, voluntarily, simply and absolutely, by the best manner, way and form that the same can be done by these Writings. And I do Renounce, and do totally Resign them, and both in Deed and Word dismise and quit the same, and from them do recede for ever. Saving to my Successors, Kings of England, the Rights to Them, or any of Them belonging, or that shall any ways belong in the said Kingdoms and Dominions and all other the Premises for ever. And I do confess, acknowledge, repute, and truly, out of certain knowledge, do Judge my self to have been, and now to be, utterly insufficient and unfit for the Rule and Government of the said Kingdoms and Dominions, with all their Appurtenances, and for My Notorious Demerits I deserve to be Deposed; and I do Swear upon these Holy Gospels of God, by Me Corporally touched, that I will never Act contrary to the said Resignation, Renunciation, Dismission, and Cession, nor any way oppose the same in Deed or in Word, by my Self, or any Others; nor will as much as in Me lies permit the same, publickly or privately to be contraven'd, or opposed; but the said Renunciation, Resignation, Dismission, and Cession, will for ever hold ratified, and will firmly observe the same in the whole and in every part, to God We Help, and these his Holy Gospels.

Then follow these Words in Latin.

Ego Richardus Rex Antedictus propria manu hæc Subscribo, i. e.

I the before-named King Richard, do Subscribe this with my own Hand.

[1] *ib. N. 14.*
The King declares it was his Will that the Duke of Lancaster should succeed Him.

And [1.] presently to the said *Renunciation*, and *Cession*, the said King declared by word of Mouth, That if it lay in His Power, the said Duke of *Lancaster* should succeed in His Kingdom. But seeing this did not depend on His Pleasure, He did Request the said Archbishop of *Tork*, and the Bishop of *Hereford* (whom He for that time had Constituted His Procurators) to declare and intimate such His *Cession* and *Renunciation* to the States of the Kingdom, that they would be pleased to signify to the People His Will and Intention in that behalf. And in token of such His Will and Intention, He did then and there openly pluck off the Golden Ring of His Signet from His own Finger, and put it upon the Finger of the said Duke of *Lancaster*, desiring, as He affirmed, that the same might be made known to all the States

States of the Kingdom, which being done, taking their Leaves on both sides, they all went out of the said *Tower*, to return to their Lodgings. Anno Dom. 1399.

On [1.] the Morrow being *Tuesday* the Feast of *St. Hierom*, the Parliament met in *Westminster-Hall*, where the Archbishop of *Tork*, and Bishop of *Hereford*, publickly declared the King's *Cession*, and *Renunciation*, with the Inscription of the King's Hand, and also the delivery of the Signet to the Duke of *Lancaster*. The *Cession* and *Renunciation* was first read in *Latin*, then in *English*, and the States and People there present were asked, if for their own Interest, and the Profit of the Nation, they would admit the *Cession* and *Renunciation*, who unanimously Answer'd, They would admit it.

After [2.] which Admission, it was publickly Proposed and agreed, that besides that, it would be most expedient, and advantageous to the Nation, and to remove all Scruples, and Sinister Suspicions, that the many Crimes and Defects committed by the said King during the time of His Government, and for which, as He Confessed in His said *Cession*, He might be worthily *Deposed*, should be drawn up in Writing, and Publickly Read and Declared to the People. The Tenor of all which Articles, is as follows.

But before I set them down, I cannot forbear taking notice, that what is next entred upon the Roll, seems impertinent to the Matter in hand; for before the Articles themselves, there is here inserted a Form of the Oath, which the Kings of *England* took at their Coronations, and which is received from them by the Archbishop of *Canterbury*, and was also taken by King *Richard* the Second.

But since I have given you the Substance of it in the beginning of this Reign, it need not be again repeated; nor can I imagine to what purpose it was enter'd here, unless it were to set forth this King's manifold Transgressions of the said Oath, for the Breach of which, they thought fit to *Depose* Him.

The Title of the said Articles are thus,

The

*The Objections or Articles against King
RICHARD, in order to His Deposing.*

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ib. N. 18.

FIRST, it is Objected to King *Richard*, That for His Evil Government, by giving the Goods and Possessions of the Crown to Persons unworthy, and His indiscreet squandering of them away, and for that end imposing grievous and intolerable Burthens upon the People, without any Reason, and likewise other innumerable Evils by his own Assent and Command perpetrated, there were by the whole Parliament, Chosen and Assigned certain Prelates, and other Lords Temporal, who with all their Power should faithfully labour at their own Charges, about the just Government of the Kingdom, the King having holden a Conventicle with his Accomplices, therein proposing to Impeach of High Treason the said Lords Spiritual and Temporal so employed about the Government of the Kingdom, and violently drew in the Justices of the said Kingdom to Confirm this his Wicked Purpose, for fear of Death, and Corporal Tortures, endeavouring with all his might to destroy the said Lords.

II. ib. N. 19.

Item, The same King lately at *St. Edmundsbury*, caused to come before Him, and others his Favourites, into a Chamber many Persons, and the greater part of the Judges, where by Threats and divers Terrors, He induced, caused and forced them singly to make Answer to certain Questions on his behalf, touching the Laws of his Kingdom, against their Will, and otherwise than they would have Answered, had they not been so forced; by Colour of which Answers, the same King proposed to have proceeded afterwards to the destruction of *Thomas Duke of Gloucester*, the Earls of *Arundel* and *Warwick*, and other Lords, against whom He was very much incensed, especially because they desired Him to be under good Government; but by Divine Providence, and the Resistance and Power of the said Lords, the King could not bring his Design to effect.

III. ib. N. 20.

Item, When the Lords Temporal in defence of themselves, resisted his Malice and Craft, the said King prefixed a day for the Parliament to do them and others Justice; who upon Faith and Confidence therein, remained quietly in their own Houses; but the King privately with his Letters or Commission, sent the Duke of *Ireland* into *Cheshire*, to raise Arms against the said Lords, Great Men, and Officers of the Commonweal, Publickly Erecting his Standard against the Peace He had Sworn to keep; from whence many Homicides, Captivities, Dissentions, and other infinite Mischiefs, followed thro' the whole Kingdom, for which Cause He incurred Perjury.

IV. ib. N. 21.

Item, That altho' the said King had Pardoned the Duke of *Gloucester*, the Earls of *Arundel* and *Warwick*, and all their Assistants all Offences in full Parliament, and for divers Years had shewn chearful Tokens of Peace and Love towards them, yet the same King, always bearing malice in his Heart, took an Opportunity, and caused to be seised the

said

said Duke of *Gloucester*, and the said Earls of *Arundel* and *Warwick*, *Anno Dom.*
and sent the Duke to *Calais* to be Imprisoned, under the Custody of *1399.*
the Earl of *Nottingham*, one of his *Appellants*; and without Answer or
Lawful Process, caused him to be Strangled, and Inhumanly and
Cruelly Murther'd. The Earl of *Arundel* Pleading his Charter of Par-
don, and demanding Justice to be done him in Parliament, yet he was
encompassed with great numbers of Armed Men, and had his Head
Wickedly struck off, and Committed the Earl of *Warwick* and Lord
Cobham to perpetual Imprisonment, Confiscating their Lands against
Justice, the Laws of his Kingdom, and his express Oath, and giving
them to their *Appellants*, or *Accusers*.

Item, At the time when in Parliament He caused the Duke of *Glou-* *V.*
cester, and Earls of *Arundel* and *Warwick* to be Condemned, that He *ib. N. 22.*
might the more freely exercise his Cruelty upon them, and accomplish
his injurious Will on others, He drew to him a great multitude of Ma-
lefactors out of the County of *Chester*, who marching up and down
the Kingdom with the King, as well within his own House as with-
out, cruelly killed his Liege Subjects, beat and wounded others,
Plundering the Goods of the People, refusing to pay for their Victuals,
Violating and Ravishing their Wives, and other Women; and altho'
great Complaints were made to the King of these Excesses, yet He
took no care to apply any Remedy, or do Justice upon them, but fa-
voured those People in their Wickedness, trusting in them, and their
Assistance, against all others of his Kingdom; for which Cause his
good Subjects had great matter of Commotion, and Indignation.

Item, Altho' the said King caused Proclamation to be made throughout *VI.*
the Kingdom, that He had caused his Uncle the Duke of *Gloucester*, *ib. N. 23.*
and the Earls of *Arundel* and *Warwick* to be Arrested, not for any Re-
bellious Congregations, or marchings with Horse up and down the
Kingdom, but for many Extortions, Oppressions, and other things
done against his Regality, and Royal Majesty, and that it was not his
Intention that any of their Company, at the time of their Assembling
and marching with Horse aforesaid, should for that Reason be Questio-
ned or disturbed; yet the said King afterwards in his Parliament
Impeached the said Lords, not for any such Extortions, Oppressions,
or other things aforesaid, but for pretended Rebellious Tumults, As-
semblies, and marching with Horse, adjudging them to death, and
caused many of their Company for fear of death to make Fine and
Ransom as Traytors, to the great destruction of abundance of his
People; and so He craftily, fraudulently and maliciously deceived the
Lords, their Followers, and the People of the Nation.

Item, After many of these Persons had paid their Fines and Ransoms, *VII.*
and had obtain'd his Letters Patents of full Pardon, yet they receiv'd no *ib. N. 24.*
benefit thereby, until they made new Fines for their Lives, by which
they were much impoverish'd, which was highly in derogation to the
Name and Honour of a King.

Item, in the last Parliament holden at *Shrewsbury*, the same King *VIII.*
purposing to Oppress his People, subtilly procur'd, and caused to be *ib. N. 25.*
Vol. III. granted,

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granted, that the whole Power of Parliament, by Consent of all the States of the Kingdom should remain in some certain Persons, who, after the Parliament should be dissolved, might answer the Petitions depending in Parliament, then undetermined, and undispached. By Colour of which Grant they proceeded to other General Matters touching that Parliament, according to the King's Will, in derogation to the State of Parliament, great disadvantage and prejudice to the Kingdom, and of Pernicious Example. And that these Actions might seem to have some Colour and Authority, the King caused the Rolls of Parliament to be changed, rased and blotted as He pleased, contrary to the effect of the Grant aforesaid.

IX.
ib. N. 26.

Item, Notwithstanding the said King at his Coronation had Sworn that He would do and cause to be done in all his Judgments, equal and right Justice, with discretion, in Mercy and Truth according to his Power; yet the said King without all Mercy, rigorously amongst other things, Ordained under great Penalties, that no Man should intercede with Him for any Favour toward Henry Duke of Lancaster then in Banishment; and in so doing, He acted against the Bond of Charity, and rashly violated his Oath.

X.
ib. N. 27.

Item, That tho' the Crown of England, with the Rights of the said Crown and Kingdom it self, have been in all times past so free, that neither the Pope, nor any other Foreign Power had any thing to do in the same, yet the said King, for the corroborating of his erroneous Statutes, supplicated the Pope to confirm the Statutes made in his last Parliament; whereupon He obtained his Apostolick Letters, or Bull, wherein were contained grievous Censures against all such as should presume to contravene them. All which things are known to be against the Crown, and Royal Dignity, and against the Statutes and Liberties of the said Kingdom.

XI.
ib. N. 28.

Item, Although the Lord Henry, now Duke of Lancaster, by the King's Command, Exhibited his Bill or Accusation against the Duke of Norfolk, concerning the State and Honour of the King, and duly prosecuted it, so that he was ready to make it good by Combat, as the King had order'd it, yet the said King had put it by, and without any Lawful Cause Banish'd the said Duke of Lancaster for ten Years, against all Justice, the Laws and Customs of the Kingdom, and the Military Law in that behalf, thereby damnably incurring Perjury,

XII.
ib. N. 29.

Item, After the said King had graciously granted to the now Duke of Lancaster, by his Letters Patents, that while he was in Banishment, his Attorneys might Sue for Livery of any Inheritance that might fall to him, for which Homage was due, which should be respited for Paying a reasonable Fine, He injuriously revoked those Letters Patents against the Laws of the Land, thereby incurring Perjury.

XIII.
ib. N. 30.

Item, Notwithstanding it had been Ordain'd, that every Year the King's Officers, with the Justices, and others of his Council, should Nominate and Chuse the Sheriffs of all Counties according to their discretion,

discretion, yet he alone Commanded others of his Party, and such as would do as he would have them, to be *Sheriffs*, to the great Grievance of his People, contrary to the Laws of his Kingdom, thereby notoriously incurring Perjury.

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Item, That whereas the said King Borrowed several Sums of Money from Lords and others by his Letters Patents, promising faithfully to repay them at a certain Term, he did not perform such his Promise, whereby his Creditors are much grieved, and not only they, but many others reckon him an unfaithful King.

XIV.
Ib. N. 31.

Item, Whereas the Kings of *England* used to live very well upon the *Revenues* of the Kingdom, and the Patrimony of the *Crown* in the time of Peace, without the oppression of their People, yet the said King during his whole time had given the greatest part of his Revenue to unworthy Persons, and imposed Burthens upon his Subjects almost every Year of his Reign; by which he hath not only excessively oppressed his People, but in a great measure impoverished his Kingdom, not employing those Goods to the Profit and Advantage of the Nation, but Prodigally squandring them away in Ostentation, Pomp, and Vain-glory, owing in the mean time great Sums of Money for *Viſuals* and other Necessaries of his Household, tho' his *Revenues* were greater than any of his Progenitors.

XV.
Ib. N. 32.

Item, The said King not willing to keep and protect the just Laws and Customs of his Kingdom, but to do whatever he Arbitrarily pleased, when those Laws have been declared to him by the Justices, and others of his Council, desiring that Justice might be done accordingly, he said expressly with an Austere Countenance, *That the Laws were only in his Mouth and Breast, and that he himself alone could Make and Change the Laws of his Kingdom*; and being so seduced, with that wrong Opinion, he would not suffer Justice to be done to many of his Liege Subjects, but by Threats and Terrors hath forced many to cease from the Prosecution of Common Justice.

XVI.
Ib. N. 33.

Item, That whereas Laws made in Parliament do always bind, until especially Revoked by the Authority of another Parliament, yet the said King desiring to enjoy such Liberty as no such Laws should bind him, and that he might do what he pleased, cunningly procured such a Petition, on behalf of the Community of his Kingdom, to be Exhibited in Parliament, and to be Granted, *That he might be as free as any of his Progenitors before him*; by Colour of which Petition and Grant, he often caused many things to be done contrary to the Laws Unrepealed, acting therein expressly and knowingly against the Oath taken at his Coronation.

XVII.
Ib. N. 34.

I em, Though it had been Ordained that no *Sheriff* should continue in his Office above One Year together, and could not be again chosen to that Office till three Years after; yet the said King for his own particular Profit, and sometimes at the Instance, and for the Benefit of others, hath permitted some Sheriffs to continue in their Offices for sometimes Two, sometimes Three Years, contrary to the Tenour and

XVIII.
Ib. N. 35.

Anno Dom. Effect of the said Statute, thereby incurring Perjury ; and this was
1399. Notoriously Publick, and generally Exclaim'd against.

XIX.
ib. N. 36.

Item, Although by Law and Custom, the People ought to be free in Choosing Two Knights to be present in every Parliament, to declare their Grievances, and provide Remedies for them, yet the said King, that he might obtain his own Headstrong Will in his Parliaments, often directed his Writs to the *Sheriffs*, to send such as he Nominated, some of whom he gained over to him by Favours, others by Threats and Terrors, others again by Bribes and Gifts ; to consent to such things as were *Prejudicial* to the Kingdom, and *Grievous* to the People ; and especially by Granting to him the *Subsidy* of *Wooll* for the Term of his Life, and another *Subsidy* for certain Years, thereby too much Oppressing the People.

XX.
ib. N. 37.

Item, The said King, that he might in all things Act Arbitrarily, did unlawfully cause and Command all *Sheriffs* to Swear, beside their Antient *Accustomed Oath*, that they would Obey all his Commands, whienever they were sent to them under the Great Seal, Privy-Seal, or Signet ; and that in case they should know any in their *Bailiwicks* or *Jurisdictions*, of what Condition soever they were, who should speak any Ill Publickly or Privately to the Disgrace or Scandal of the King's Person, they should forthwith Arrest and Commit them to Prison, there to remain 'till they received other Commands from the King, as may be found in the Record ; which Practice might in all probability tend to the destruction of many of the good Subjects of this Kingdom.

XXI.
ib. N. 38.

Item, The said King, that he might the more trample upon his People, and get their Estates to Enrich himself, caused the People of *Sixteen Counties*, by Letters under their Seals, to submit themselves to him as *Trayters* ; by Colour of which, he got from them vast Sums of Money to obtain his Favour. And altho' to please the People, those Letters Obligatory were restored to them, yet the *Procurators* of the People had full Power to bind themselves for them to the King, which he caused to be done, and so deceived his People, and subtilly extorted their Goods from them.

XXII.
ib. N. 39.

Item, Altho' the said King had Sworn at his Coronation to preserve the Liberties Granted to the *Church of England*, yet by reason of his Voyage into *Ireland*, he by his Letters Commanded many *Religious Persons*, viz. *Abbots* and *Priors*, some to send him Horses, others Waggon and Carriages, others great Sums of Money ; by which manner of Writing, he forced many of them out of fear to comply with his Demands ; by which means they were grievously Impoverish'd and Oppressed, in manifest derogation of *Ecclesiastical Liberty*, and he no less had incurred *Perjury*.

XXIII.
ib. N. 40.

Item, In many Great Councils, when the Lords and Justices were Charged to Advise him Faithfully in Matters relating to his Own, and the State of the Kingdom, yet those Lords and Justices were often so sharply Rebuked, and Reproved, that they have not dared to speak
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the Truth in giving their Advice concerning the State of himself, and the Kingdom. *Anno Dom.*

1399.

Item, The Treasure, Reliques, and Jewels of the Crown, (the Goods of the Kingdom) which had and ought to be repositied in the Treasury for the Honour of the King, and Preservation of the Kingdom, against any sudden Emergency that might happen, the said King carried into Ireland with him, without the Consent of the States of the Realm, whereby the Kingdom had been greatly Impoverish'd, if God had not otherwise Provided, by the re-taking of those Goods from him against his Will. And furthermore, he caused the Rolls of Records concerning the State and Government of his Kingdom to be rased, to the great prejudice of his People, and Disheritance of the Crown; and all this he did, as it is strongly believed, for the Support of his Evil Government. *XXIV. lb. N. 41.*

Item, He was so Variable and Dissembling in his Words and Writings, and so contrary to himself, especially in Writing to the Pope, Kings, and other Lords out of the Kingdom, as well as within it, and also to his other Subjects, that no Man living knowing what he was, could confide in him; yea he was reputed so Unfaithful and Inconstant, that he not only became a Scandal to his own Person, but also to the whole Kingdom, and to all Foreigners, when once they came to know him. *XXV. lb. N. 42.*

Item, Tho' the Lands, Tenements, Goods and Chattels of all Freeman, by the Laws of the Land, ought not to be Seised, unless they be Forfeited, yet the said King, intending to enervate those Laws, in the presence of very many Lords, and others of the Community of the Kingdom, hath often said and affirmed, that the Life of every one of his Subjects, and his Lands, Tenements, Goods, and Chattels, were his, to be disposed of as he pleased, without any Forfeiture; which is utterly against the Laws and Customs of the Kingdom. *XXVI. lb. N. 43.*

*Item, Altho' it had been Enacted a Law, which had hitherto been Confirmed; That no Freeman shall be taken, &c. nor any ways destroy'd, and that the King shall not proceed against him but by Lawful Trial of his Peers, or the Law of the Land; yet according to the Will, Command and Appointment of the said King, very many of his Liege-People being maliciously Accused, for having spoken Publickly, or Privately, words that might tend to the Scandal and Disgrace of the King's Person, have been taken, Imprisoned, and brought before the Constable and Marshal in the Court Military, and there being Accused, they could not be admitted to give any other Answer, than not Guilty; and could defend themselves no otherwise than by *their Bodies, their * By Com- Accusers being Young Men, Lusty and Stout, whereas they were often bate. Antient, Impotent, Lame, or Infirm; whereby not only the Destruction of divers Lords and Great Men, but of many other private Persons of the Community of the Kingdom, were likely to have follow'd; since therefore the said King hath wilfully contraven'd this Law, it was not to be doubted but he hath incurred the Crime of Perjury.* *XXVII. lb. N. 44.*

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XXVIII.

1b. N. 45.

Item, Altho' the People of *England* by Vertue of their *Liegeance*, were sufficiently bound to their King, and if they Offended in any manner, he is enabled to Correct and Punish them by the Laws and Customs of the Kingdom, yet the said King desiring to trample on, and too much Oppress his People, that he might the more freely execute and follow the Fancy of his *Foolish* and *Unlawful Will*, he sent his Letters into all Counties of this Kingdom; that *all his Liege Subjects*, as well Spiritual as Temporal, should take *certain Oaths in General*, which were very grievous to them, and which might probably cause the *final Destruction* of his People, and that they should Confirm those Oaths under their Letters and Seals; which Command the People obey'd, lest they should incur his Indignation, and likewise for fear of Death.

XXIX.

1b. N. 46.

Item, When Parties contending in the *Ecclesiastical Court*, in Causes meerly *Ecclesiastical* and *Spiritual*, had endeavour'd to procure *Prohibitions* to hinder Proceſs in the ſame, from the Chancellor of *England*, and he had juſtly reſuſed to grant them, yet the ſaid King often granted them by Letters under his Signer, wickedly infringing the Liberties of the Church, Granted by *Magna Charta*, which he had Sworn to obſerve, thereby damnably incurring *Perjury*, and the Sentence of *Excommunication*, pronounced by the Holy Fathers againſt the Violators of Church Liberties.

XXX.

1b. N. 47.

Item, The ſaid King in Parliament, being encompassed about with Armed Men, did without any reaſonable Cauſe, or any Legal Proceſs whatſoever, contrary to the Laws of the Kingdom, adjuſt to Banishment, *Thomas Arundel* Archbiſhop of *Canterbury*, Primate of all *England*, his Spiritual Father, being then abſent, by his (the King's) Treacherous Councils, and Contrivance.

XXXI.

1b. N. 48.

Item, Upon Inſpection of the ſaid King's laſt Will and Teſtament under the Great Seal, Privy Seal, and alſo his own Signet, there was in it (*inter Alia*) this Clauſe. *Alſo we Will, that the Debts of Our Houſhold, Chamber, and Wardrobe being firſt paid, for which we bequeath Twenty Thouſand Pounds, and the Lepers, and Chaplains provided for, whom we have appointed to be Maintain'd at Weſtmiſter, and Bermondſey, and for which we allow five or Six Thouſand Marks, the reſidue of Our Gold ſhall remain to Our Succeſſor, upon Condition, that He Approves, Ratifies, Confirms, Holds, and cauſeth to be holden, all Laws, Statutes, Ordinances and Judgments, made, had, or done in Our Parliament began at Weſtmiſter on the Seventeenth of September, in the Twenty firſt Year of Our Reign. and Continued or Adjuſtured to Shrewsbury; and all things done at Coventry on the Sixteenth of September, in the Twenty Second Year of Our Reign: as alſo what what was done at Weſtmiſter, on the Eighteenth Day of March, in the ſame Year, by Authority of the ſame Parliament: But if the ſaid Succeſſor ſhall reſuſe to do theſe Things, then we Will, that*

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Thomas Duke of Surrey, Edward Duke of Aumarle, John Duke of Exeter, and William le Scrope Earl of Wiltshire. (*My Debts as aforesaid being Paid*) shall have the Residue, for the Defence of the Statutes, Ordinances, Judgments and Establishments aforesaid, to the utmost of their Power, even to Death, if it be necessary: Upon all which things we do hereby Charge and Burthen their Consciences, as they will Answer it at the Day of Judgment. By which Article it appears evidently, that the said King endeavour'd pertinaciously to maintain those Statutes and Ordinances, which were Erroneous, Unjust, and Repugnant to all Law and Reason; and this not only during his own Life, but after his Decease, neither regarding the Danger of his Soul, nor the utmost Destruction of his Kingdom, or Liege-People.

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Item, Whereas in the Eleventh Year of the said King Richard, in the Chappel of his Mannor of *Langley*, in the Presence of the Dukes of *Lancaster* and *Tork*, and divers other Lords, desiring (as it has appeared) that his Uncle the Duke of *Gloucester*, there also present, might fully Trust and Confide in him the said King, did of his own accord, Swear upon the Venerable Sacrament of the Lord's Body placed upon the Altar, that he would Pardon unto him all things which were said to be committed against his Person, and that he should never receive any Damage for them; yet afterwards the said King, notwithstanding this Oath, caused the Duke for those very Offences, to be horribly and cruelly Murthered, damnably incurring the Guilt of Perjury.

XXXII.
lb. N. 49.

Item, After one of the Knights of the Shires, who had a Vote in Parliament, had Impeached the said Archbishop of *Canterbury* Publickly before the King, and all the States of the Realm, upon certain Defaults committed against the King, as was untruly suggested; and he, the Archbishop, offer'd presently to Answer what was Objected against him, and desired to be admitted by the King so to do, sufficiently trusting, as he said, to shew his Innocency; yet the said King contriving by all the ways and means he could to oppress his Person, and ruin the State of the Archbishop (as the event of the Matter after declared) and from his Royal Seat speaking Graciously to him, earnestly desired that then he would hold his peace, and expect a more fitting time to make his Defence. But that day being past, the King for five days and more, did Fraudulently and Treacherously deceive him, Advising and Persuading him not to come to Parliament, but to remain in quiet at his own House, promising that in his Absence he should not receive any loss or prejudice. Notwithstanding all which, the said King in that Parliament Banish'd the Archbishop during his Pleasure, though absent, and not at all called to Answer, and without any reasonable Cause whatsoever; Confiscating all his Goods, against the Laws of the Land, and all Justice, by which he became further guilty of *Perjury*. Moreover, the said King intending to palliate his Malice and Subilty by Flattering Words, endeavour'd to cast the Injury done him, upon others; insomuch that the Archbishop having

XXXIII.
lb. N. 50.

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Discourse with the King, the Duke of Norfolk, and some other Lords and Great Men said (lamenting his own Condition) that *He was not the first who had been Banish'd, nor should be the last; for that he thought within a very short time the Duke of Norfolk and other Lords would follow him*; and boldly told the King, that the Consequences of these Proceedings would fall upon his own Head at last. To which the King, as if he had been astonished, presently Answer'd, *He thought it might so happen, and that he himself might be expelled his Kingdom by his Subjects*; and further said, that if it should be so, he would convey himself to the same Place where he the Archbishop then should be; and that the Archbishop might the more readily believe him, he shew'd him a great Jewel of Gold under his upper Vestment, which he said he would send to him as a Token, that he would not defer his coming to the Place where he was. And that the Archbishop might have still the greater Confidence in him, he sent to him, Advising him that he should privately send all the Jewels belonging to his Chappel to the said King, to be safely kept, lest under the Colour of the Judgment of Banishment, they might be seized; which being so done, the King caused them to be put into certain Coffers, and those to be locked up, and Sealed by one of the Archbishop's Clerks, by whom he returned the Keys to him; yet afterwards he caused the said Coffers to be broken open, and took out the Goods, and disposed of them according to his own will and pleasure. Furthermore, the said King faithfully promised the Archbishop, that if he would repair to the Port of *Hampton*, in order to go out of the Kingdom, he would by the Queen's Intercession get him to be recalled. And if it should so happen that he should go out of the Kingdom, yet after *Easter* next coming, he should return into *England* without fail, nor should he any way lose his Archbishoprick: This too he faithfully Promised, Swearing upon the Cross of *St. Thomas* the Martyr, Archbishop of *Canterbury*; notwithstanding, which Promises the King caused the Archbishop to go out of the Kingdom, and wrote to the Pope for his Translation to some mean Foreign Bishoprick. And thus by the Frauds and Deceitful Practices of the King, was the Archbishop, a Man of easie Faith, craftily Circumvented.

Then these Articles (being Thirty Three in Number) were openly Read in the Parliament against King *Richard*, and the Record proceeds thus.

1b. N. 51.

And because it seemed to all the Estates of the Kingdom, (their Judgments being severally and jointly demanded) that these Causes of Crimes and Defects were sufficient and notorious to Depose the said King; his own Confession also consider'd, and other things contain'd in his *Renunciation* and *Cession*: All the Estates aforesaid unanimously consented *ex abundanti* to proceed to the *Deposition* of him the said King, for the greater Security and Tranquility of the People, and Profit of the Kingdom: And accordingly they appointed certain Commissioners, *viz.* the Bishop of *St. Asaph*, the Abbot of *Glastonbury*, the Earl of *Gloucester*, the Lord *Berkley*, *Thomas Erpyngham*, and *Thomas Grey* Knights, and *William Thirnyng* Justice, to pronounce Sentence of

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Deposition

Deposition against King Richard, from all Royal Dignity, Majesty and Anno Dom. Honour, in the Name and by Authority of all the Estates, as in like 1399. Cases, according to the Antient Custom of the Kingdom, had been observ'd. And forthwith the Commissioners took upon them the Charge of the said Commission, which being drawn up in Writing, the Bishop of St. Asaph read in these Words.

I*N the Name of God Amen. We John Bishop of St. Asaph, John Abbot of Glastonbury, Thomas Earl of Gloucester, Thomas Lord Berkeley, Thomas de Erpingham, and Thomas Grey Knights, and William Thyrning Justiciary, by the Spiritual and Temporal Peers, and Great Men of the Kingdom of England, and by the Commons of the same, representing all the Estates thereof Sitting in Tribunal, being specially Deputed Commissioners for the things under-written, duly considering the many Perjuries, Cruelties, and other Crimes committed and done by King Richard in the time of His Government, and Publickly exhibited and recited before the said Estates, which are so Publick, Notorious, Manifest and Scandalous, that they could no way be denied; and considering also the Confession of Him the said King, acknowledging, and truly of His own certain Knowledge judging Himself to have been, and to be altogether insufficient and unmeet for the Government of the said Kingdom, and Dominions, with their Appurtenances as aforesaid, and that for His Notorious Demerits He was worthy to be Deposed; which things by His own Will and Command, were published before the States, and made known and set forth in the Vulgar Tongue, having had diligent Deliberation upon these things transacted in this Affair, We do on the Behalf, and in the Name, and by the Authority to us Committed, do ex abundanti, and for greater Caution, Pronounce, Decree, and Declare Him the said Richard to have been, and to be unfit, unable, and utterly insufficient for, and unworthy of the Rule and Government of the said Kingdoms, and the Dominions, Rights and Appurtenances belonging to the same; and by reason of the Premisses to be deservedly Deposed from all Royal Dignity and Honour, if any such be yet remaining in Him; and with the same Caution We Depose Him by Our Definitive Sentence in this Writing, expressly forbidding all and singular Archbishops, Bishops, and Prelates, Dukes, Marquesses, Earls, Barons, Knights, Vassals, and Valvasors, and all other Subjects and Liege-People of the said Kingdom and Dominions, and other Places belonging to them, for the future to Obey or Regard the said Richard as King.*

Furthermore, the said States desiring that there might be nothing wanting, which ought to be required in this Matter, being severally interrogated thereupon, did Constitute certain Persons to be their Proctors or Agents, Named by the said Commissioners to go to King Richard to resign the Homage and Fealty that before had been made to Him, and give Him notice of what had been done touching such His Deposition, and Renunciation. *ib. N. 53*

And presently, as soon as it appeared from the Premisses, and the occasion thereof, that the Crown of England with the Appurtenances was Vacant, Henry Duke of Lancaster rising from His Seat, and standing so erected as He might sufficiently be seen by the People, *ib. N. 54*

Anno Dom. 1399. humbly Crossing Himself on His Forehead, and on His Breast, and having first called upon the Name of *Christ*, Claimed the said Kingdom of *England*, thus become Vacant, with the Crown, and all its Members and Appurtenances, in His Mother Tongue, in this Form of Words.

Ibid.

In the Name of Father, Son, and Holy Ghost, I Henry of Lancaster, Challenge this Kewme of Ynglonde, and the Crown, with all the Membres, and the Appurtenances, als I that am descendit be Ryght Lyne of the Blode comyng fro the Gude Lord King Henry Therde, and thoge that Ryght that God of his Grace hath sent me, with helpe of my kyn, and of my frendes to recover it; the which Kewme was in poynt to be ondone for default of Gubernance, and undoying of the Gude Lawes.

ib. N. 54.

After this Claim, as well the Lords Spiritual as Temporal, and all the States there present, were asked one by one, what they thought of it? who without any difficulty or delay, unanimously consented that the Duke should Reign over them. And immediately, so soon as He shew'd the *States* of the Kingdom King *Richard's* Signer, which He gave Him as a Token of His Intention, as was said before, the Archbishop taking *Henry* by the Right Hand, led Him to the Royal Throne, and when the said King had kneeled, and Prayed a while before it, the Archbishop of *Canterbury*, the Archbishop of *Tork* Assisting Him, He placed Himself therein; the People for great Joy shouting mightily.

ib. N. 55.

When the Shouting was over, the Archbishop of *Canterbury* made a short Preachment, or *Collation* (as 'tis called in the Roll) his Text or Theme was, 1 *Sam. C. ix. v. 17.* the *English* Version of the whole Verse, according to vulgar Edition, runs thus: *And when Samuel saw Saul, the Lord said unto him, Behold the Man whom I spake to thee of, this same shall rule over my People.* The Intent of this Sermon was, to make a Comparison between King *Richard*, whom he supposes to be a Child, and his whole Government a meer Childish way of Acting, and King *Henry* who is a perfect Wise Man. In this Discourse he makes use of several Places of Scripture, but how properly, or to the Purpose, I shall not take upon me to determine: But at length he insinuates, that by a Childish Government the Nation had been in great Danger, but now they were freed from it, *because a Man will Reign over us*, one that neither acts nor speaks, to wit, as a *Child*, but will in earnest consider *Cogitabit Circumspectionem Dei*, God regards Him: So that He will diligently take Care that God's Will, not His own, be done. And thus in the Place of a Child wantoning in a Foolish and Stubborn Humour, a Man Rules over the People; and such a Man that it may be said of Him, *A King shall Reign in Wisdom, and shall execute Judgment, and do Justice in the Land.*

ib. N. 56.

Which *Collation* ended, King *Henry*, to quiet and settle the Minds of His Subjects, said Audibly these following Words.

Sires,

Sires,

I Thank God and you Spirituel and Temporel, and all the Estates of the Lond and do you to wyte, it es nocht my will that no Man think, that be waye of Conquest I wold Disheir any Man of his Heritage: franchises, or other Ryghts that hym aght to have, no put him out of that that he has, and has had by the gude Lawes and Customes of the Rewme; except those Persons that has ben agan the gude Purpose, and the Commune Profyt of the Rewme.

Anno Dom.

1399.

And forthwith it being Considered that by the former Vacancy of the Throne by the *Cession* and *Deposition* of King Richard, the Power of all the Justices, Sheriffs, and other Officers thro' the Kingdom ceased; therefore lest Justice might be delayed to the Grievance of the People, the present King named His Principal Officers and Justices, who took the usual Oaths; and forthwith Proclamation was made by the King's Command, that on *Monday* next after the Feast of St. Michael, a Parliament should be held; and that on *Monday* next following, on the Feast of St. Edward, the Coronation should be at *Westminster*; and that all those who claimed any Service there, might then put in their Claims and Petitions before the Steward, Constable, and Marshal of *England*, in the *White-Hall* of the Palace, where they should receive full Justice. But as for the shortness of time assigned for the Sitting of the Parliament, the King made *Protestation*, That it was not His Intention it should be any Prejudice to the States of His Kingdom, or that it should be made an Example for the Future; but that it was only for the Profit of the Kingdom, and especially to spare the Labour and Expences of His Lieges, and that the Grievances of the People might have a more speedy Remedy.

Ib. N. 57.

All which Things being finished, the King rose from His Throne, and beholding the People with a Cheerful Countenance, departed; and the same Day in the *White-Hall*, He made a Splendid Entertainment for the Nobility and Gentlemen, who were there in great Numbers.

Ib. N. 58.

These things were done on *Tuesday* the 30th of *September*.

And afterwards, on the next day, being *Wednesday*, the Deputies, or Proctors before mention'd, went to Richard late King, in the *Tower*, as they had been enjoyned, viz. *William Thirnyng Justitiary*, for himself, and Fellow Procurators, in the Name of all the States and People, and notified to Richard, and fully declared the Admission of His *Renunciation*, and the Manner, Cause, and Form of the Sentence of His *Deposition*, and presently Resigned the *Homage* and *Fealtie* that had been made to the late King Richard, in the following Form.

The Record has this Title.

Anno Dom. The Words which William Thirnyng spake to Monsire
 1399.
 1d. N. 59. RICHARD, late King of England, at the Tower of
 London, in His Chamber there, on Wednesday next after
 the Feast of St. Michael the Archangel.

Sire,

It is wele knowen to zowe, that there was a Parliament
 Sonour'd of all the Estates of the Reaume for to be at West-
 mynstre, and to begynne on the Tuesday in the morrow of the fest
 of Seint Michell, the Archaungell, that was yesterday, bycause
 of the whiche Sommons, all the States of this Lond were
 there gadyrd, the whiche States hole made thes same per-
 sones that ben Comen here to zowe, nowe her Procurators, and
 gafen hem full Auctoritie and Power, and Charged hem for to
 say the words, that we sall say to zowe in her Name, and on
 their behalf; that is to wyttten, the Bishop of Seint Asa
 for Ersbishoppes, and Bisheppes; the Abbot of Glattenburgh
 for Abbotes and Priours, and all other Men of Holy Chirche,
 Seculers and Rewelers; the Earl of Glaucetre for Dukes and
 Carls; the Lord of Berkeley for Barones, and Banneretts;
 Sire Thomas Ircpyngham Chamberleyn, for all the Bachilers,
 and Commons of thes Lond be south; Sire Thomas Greg for all
 the Bachilers, and Commons be North, and my fclawe Johan
 Markham and me for to come with hem for all these states: and
 so Sire, these words, and the doing that we sall say to zowe, is
 not onlych our wordes, but the wordes and the doyngs of all
 the States of thes Lond, and our Charge, and in her Name.
 And He answered and said, that he myste wele that we
 would noght say but as we were charged: Sire, ze remembre
 zowe wele that on Mone day on the fest of Seint Michell the
 Archaungell ryght here, in this Chambr and in what pre-
 sence ze Renounced and Cessed of the State of Kyng and Lord-
 ship, and of all the Dignite and Worshipp that longed thereto,
 and assoiled all your Lieges of her Legiance and Obeysance
 that longed to zowe uppe the fforume that is contened in the
 same Renunciation and Cession, whiche ze redde your self by
 your Mouth, and affirmed it by your Othe, and by your owne
 writing: Upon which ze made and ordeyned your Procura-
 tors, the Ersbishopp of York and the Byschopp of Hereford,
 for to notific and declare in your Name thes Renunciation
 and Cession at Westmynstre, to all the states and all the People
 that was there gadyrd, bycause of the Summons forsayd, the
 whiche was done yesterday by this Lords your Procurators,
 and wele herde, and understonen thes Renunciation and
 Cession were pleinelich and frelich accepted and fullich
 agreed by all the States, and People forsayd. And over this,
 Sire, at the Instance of all thes States, and People, there
 were certain Articles of Defaults in your Governace redde
 there, and tho' wele herd and pleinelich understonen to all
 the

the States forsayd, hem thought hem to trewe, and to nofoure
and knowen, that by the Causes, and by myghte as
sayd, and having Consideration to your own Majestie,
your own Renunciacion and Cession, that is to sayd
worthie, no sufficient, ne able for to Governen for your
Demerits, as it is more pleynly contented there. Hem
thought that was Reasonable and Cause for to Depose yow
and her Commissaries, that her name and obeyed as it is
of Record, ther declared and decreed and admitted yowe for to
be Deposed and Pryved; and in dede Deposed, yow and pryved
yowe of the Astate of Kyng, and of the Lordeship contented for
the Renunciacion, and Cession forsayd, and of all the Digi-
nite and Worshipp, and of all the Administration that
longed thereto; And we Procurators to all thes States and
People forsayd; for all the States and People forsayd as
we be charged by hem and by her Auctorite gyven us, and in
her name zelde yowe uppe, Homage Liege, and feaute, and
all Legiance, and all other Bوند, Charges, and Services
that long thereto; and that non of all thes States and Peo-
ple fro this tyme forward, ne here yowe ffeyth ne do yowe
Obeysauce as to that Kyng.

And he answered and seyde, that he loved not thereafter;
but he seyde, that after all this, he hoped that his Cōsyn
wolde be gode Lord to hym.

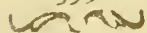
Thus far the Record, - Translated *Verbatim* out of the *Latin* and
French, and the old *English* is recited in the very words and obsolete
Spelling, as it stands in the Rolls remaining in the *Tower*, which tho'
I have Transcribed from Dr. Brady's Translation, yet have I compar'd
and corrected it my self with the Original in divers Places, where it
was either Faulty, or Imperfect.

Having thus Attended this Unhappy Prince thro' all the Stages of
Good and Evil Fortune, his Reign may serve to teach us, as well as
more Modern Examples, that a Prince by grasping at too Absolute a
Power, may come to be deprived of his otherwise unquestion'd Do-
minion and Right; and this King, tho' for a time one of the most
Absolute that ever sat on the *English* Throne, thereby became on a
sudden abandon'd and despis'd, and reduced to a State so much worse
than that of *Death*, as it is much better for a Prince never to have
once enjoy'd a Crown, than by his own Default and Weakness to
be deprived of it.

Yet this Affliction lasted not very long, since there are seldom many
steps between the Prisons and the Graves of Princes; though in truth,
his Fate seems to have been accelerated by the vain Attempts of his
Friends to Restore Him, rather than by any pre-design of those that
dispossessed Him.

For at first after his *Deposition*, he was carried to *Leeds-Castle* in
Kent, and there kept under a competent Guard, as a Prisoner, but not
in any very close Confinement, nor yet without Princely Maintenance
in some proportion to his *Quondam* Quality; where we shall leave Him
Vol. III. Q99999 2 for

Anno Dom. 1399. for a time, and defer saying any thing of the manner of his *Death* and *Burial*, until the beginning of the next Reign.



But since I look upon this as already at an end, I shall conclude it with a short Description of this King's Person, and Character of his Disposition, chiefly taken from the Actions of his Life.

As to his Person, He is described to have been one of the most aimable that ever Reign'd since the *Conquest*; he was tall of Stature, of streight and long Limbs, of a fair Complexion, as might well besit the Son of so Beautiful a Mother; and indeed if He resembled that Picture which is still to be seen behind the Stall next the Pulpit in the Choir of the Abby Church of *Westminster*, His Face seems too fair and effeminate for a Man; but that this could not be drawn during His Life time, I have already shewn in my *Introduction*.

As for His Humour and Natural Temper, there was more to be blamed in His Education, than in His Nature; for there appeared in Him many good Inclinations, which might have grown to perfect Virtues, if they had not been blasted by corrupt Flatterers in his Youth; he was of a credulous Disposition, apt to believe, and therefore easie to be abused by those for whom he had a kindness, which they too often made an ill use of, to the utter loss of all esteem and affection among his People; for tho' Princes may be very well indulged, as well as Private Persons, in having their particular Friends and Favourites, yet ought it to be so limited as not to exceed the bounds of discretion and Moderation; but to prefer Men to Offices of the highest Dignity and Importance in the State, meerly for their outside, or because they have served as the Instruments of their Pleasure, or Lust, is that which a Free-born People (as ours is) will never brook; and whoever will consult our Histories may find, that the greatest Troubles that have fallen upon our Princes, have been originally, if not chiefly, on that account.

But to return to what we have digressed from. One of the best Qualities this King was Master of, was, that when he saw he could not help it, he for the present complied with his Parliaments, in parting with and Banishing his Favourites, and bringing things again into good order, tho' it lasted but for a time; for as soon as he recovered his Power, he not only undid all that ever he had done before, but severely revenged himself upon all those who had any hand in making those Restraints and Alterations; which tho' perhaps they were carried too far, yet certainly his desire of Revenge must be very immoderate, which prompted him to put his Uncle the Duke of *Gloucester* and other Lords to Death or Banishment, for things committed above nine Years before, which shewed him to be of a Temper not easily to forgive, if once he had been thoroughly offended.

And tho' He might have sufficient Courage, yet we do not find that he often car'd to exert it, since he made no Warlike Expedition into *France* during his whole Reign, in order to recover what his Grandfather or himself had lost there; and tho' he made two Expeditions into *Ireland*, as he did little in the first of them, so the latter proved his Ruin, as you have already seen; yet he might have gone near to have kept the Crown on his head, could he have continued in his first Resolution of Marching with those Forces he had left, against his

Enemy

Enemy the Duke of *Lancaster*, in which if he had perished, he had still died a King; tho' indeed he never shewed himself more worthy of Government, than when he was *Deposed* as unworthy to Govern; for if he did not dissemble, it appeared that his Regal State was not so dear unto him as a Private Life, which if he could have quietly enjoyed, perhaps he might have passed the rest of his Days much more happily than under the toil and burthen of a Crown.

Anno Dom.
1399.

As for his other Qualities, he was rather Profuse than Liberal in his Gifts and Expences, keeping a greater State and Hospitality than any of his Predecessors; insomuch that our Historians relate, that above a Thousand Persons were every day fed from his Kitchen; and tho' we find no Publick Act of Charity done by him, yet his Re-building of *Westminster-Hall* in that Noble manner it now stands, sufficiently shews, that he loved to appear Great and Magnificent in whatever he undertook: tho' it is not Buildings, but Great and Worthy Undertakings for the Publick Good of his Country, that do really shew the Greatness of a Prince's Soul.

This Prince I confess is Taxed by several Writers, as a Person of a Dissolute and Luxurious Life; but whether it was out of his great Love to his Queen; or from a Natural Gift of Continence, I do not find him Charged with any particular Mistresses or Amours; and tho' She deceased, and left Him a Widdower, in the prime of His Years, we do not read of any Base Issue He had, either Male, or Female. Yet I must own, his too great affection to, and Familiarity with the Duke of *Ireland*, a Person of a most Beautiful Shape, gave too much occasion to his Enemies to Censure it, as proceeding from a Cause fitter to be guessed at, than mentio'nd by an Historian, who ought not to traduce any, and especially Princes, upon bare Suspicions.

His Wives.

The *First* was *Anne*, Daughter to *Charles the Fourth*, Emperor of *Germany*, who having been his Wife Twelve Years, Died without Issue.

His *Second* was *Isabelle*, Eldest Daughter to *Charles the Sixth*, King of *France*, to whom he was Married the 28th of *October*, 1396. She being then not above Seven or Eight Years of Age, and therefore never Bedded Her; being Dethroned, and Murthered about Three Years after.

An

*An ABSTRACT of the Principal Statutes
made in the Reign of King RICHARD the
Second.*

IN His First Parliament at the beginnig of His Reign,
A. D. 1377.

C A P. I.

Contains a Confirmation of the *Liberties* of the Church, and the Great Charter of *Forests*, which are to be observed, and firmly kept in all Points.

C A P. II.

That the King's Peace shall be kept, and Justice done to all Persons.

C A P. III.

That *Prelates* shall have their Actions of *Trespass* against the King's *Purveyors* Offending against the Statute of *Edward the Third*, and to recover Treble Damages.

C A P. IV.

That no Great Officer of the Kings shall maintain Quarrels in the Country, on pain of a Fine to be imposed by the King and his Council, and if he be the King's Menial Officer, or Household Servant, he shall also lose his Place.

C A P. V.

Ordains the Punishment of a Clerk of the *Exchequer* for making Procces for a Debt that is already paid.

C A P. VI.

Concerning Commissions to be Awarded to enquire of the Misbehaviour of Villains to their Lords, and now become obsolete.

C A P. VII.

That none shall give any Liveries for maintenance of Quarrels or other Conspiracies, on pain of Imprisonment, and grievous Forfeiture to the King; and the Justices of *Assize* shall diligently enquire of such as gather together in Fraternities for such Purposes, and shall Punish them according to their Demerits.

C A P. VIII.

Provides, in what Case a *Protection cum Clausula Volumus* shall be allowed before any Judge, for Provisions taken up for the King's Service.

C A P. IX.

Every Gift of *Feoffment* of Lands, Tenements, or Goods, made by *Fraud* or *Maintenance*, shall be void, and the *Disseisee* (notwithstanding such Alienation) shall recover against the first *Disseisor* both his Lands, and double Damages; provided he commence his Suit within a Year after the *Disseisin*, and that such *Feoffor* be then *Pernor* of the Profits.

C A P. X.

A Confirmation of the Pardon Granted by King *Edward III.* in the 50th Year of His Reign.

C A P. XI.

None that had been *Sheriff* of any County a whole Year, shall be Chosen again within *Three Years* ensuing. *Nec duobus tunc sequentibus Annis ad idem Officium reassumetur*, says the Lord Chancellor *Fortescue*, but mistakenly, *Ch. 24.*

C A P. XII.

Appoints the Penalty of the Warden of the *Fleet*, if he suffer a Prisoner being there by Judgment, to go at large; and appoints the Penalty of him who shall falsely confess a Debt as due to the King, to delay another Man's Execution.

C A P. XIII.

Ordains, that *Ecclesiastical* Judges shall not be Indicted or Imprisoned for Judgments given in any *Ecclesiastical Court*, with the Penalty of those that shall procure such Indictments.

C A P. XIV.

That in an Action against a *Clerk* for *Goods* carried away, and the *Defendant* makes his Title as for *Tithes* due to the Church, that in such Case the *General Averment* shall not be taken, without shewing especially, how that the same was his *Lay-Chattel*.

C A P. XV.

Appoints the Penalty against Arresting any *Priest* whilst he is saying *Divine Service*.

At a Parliament held at Gloucester, in the Second Year of His Reign, 1378.

C A P. I.

It was Ordained, That seeing the Great Inconveniencies which have ensued by restraining *Merchants Strangers* from Buying and Selling *Provisions* and other *Commodities* within the Realm; it therefore gives leave that *Merchants Strangers* may freely Buy and Sell such *Commodities* as are mention'd and allowed by this Act; with the Penalty on those who shall disturb such *Merchants* to Sell Wares at their pleasures.

The 2d, 3d and 4th are either alter'd, or become obsolete.

C A P. V.

None shall Report any *False* or *Slandorous News* or * *false Tales*, whereupon Discord may arise betwixt the *King* and his *People*, or the *Great Men* of the Realm, on pain of *Imprisonment*, until he produce the Author.

* *Mensonges*, *Mendacia*, says the Lord Coke, 4. Rep. 12 b. But he likewise tells us, this Act is not of Record. 4 Instit. 51.

At the Parliament held at Westminster the same Year.

C A P. I.

The Liberties of the *Church* and the *Great Charters* are again Confirm'd.

C A P. III.

Ordains, That *Frauds* committed by *Debtors* to deceive their *Creditors*, shall be void.

At the Parliament held at Westminster in His Third Year.

C A P. I.

Contains a like Confirmation of the Liberties of the *Church* and the *Realm*, as have been often already Confirm'd.

C A P. II.

The Penalty of an *Alnager* that setteth his Seal to *Faulty Cloths*, which Statute, tho' it is still in force, yet is so ill Executed, that it signifies very little, if any thing.

Vol. III.

C A P.

C A P. III.

None * shall take any *Benefice* of an *Alien*, or convey Money to Him, under pain of a *Premunire*; but since I have given a large Account of this Statute in the Relation of *Church-Affairs*, I need say no more of it here.

* Hereby was understood the Pope, and any of his Cardinals, being Foreigners.

At a Parliament held at Northampton, the Fourth of this King, A. D. 1380.

C A P. I.

It was Ordain'd, That all *Vessels* of Wine, Vinegar, Honey, and Oyl brought into this Realm, shall be *Gauged*.

At the Parliament held at Westminster, 5° Richard II.

C A P. I.

The Liberties of the *Church*, and of the *Realm*, as also all other good Laws and Statutes were again Confirm'd.

C A P. II.

That no *Gold*, or *Silver*, Coin'd, or Uncoin'd, shall be carried *Beyond-Sea* without the King's License; and further, that no Person, except Lords, and Great Men of the Realm, and true and notable Merchants and Soldiers shall go out of the Realm without the King's License, with the Penalty upon the Master or Mariners of the Ship that shall venture to carry them, which being now obsolete, I omit.

C A P. VII.

Ordains, That none from henceforth make an Entry into any Lands and Tenements, but in Case where Entry is given by the Law; and in such Case, not with strong hand, nor with multitude of People, but ony in peaceable and easie manner; and if any Man from henceforth do to the contrary, and thereof be duly Convict, he shall be punish'd by Imprisonment of his Body, and therefore Ransomed at the King's Will.

C A P. VIII.

Ordains a Remedy for those whose Writings were destroyed in the late Insurrection of the Clowns and Villains.

C A P. IX.

That every Person that is impleaded in the *Exchequer* for Debts, Accounts, or other Demands, may plead his own Discharge before the *Barons*, without tarrying for, or suing out any Writ whatsoever.

C A P. X.

The Covenants of all those who shall be retained to serve the King in his Wars or Embassies, shall be put into Writing, and sent into the *Exchequer*.

C A P. XI.

The *Accompts* of the *Exchequer* shall be more speedily heard than before they were wont.

C A P. XII.

Two Clerks shall be assigned to make Parcels of *Accompts* in the *Exchequer*.

C A P. XIII.

Accompts of *Nichil* shall be put out of the *Exchequer*.

C A P. XIV.

The Clerk of the *Pipe* and the two *Remembrancers* shall be Sworn for the Entry of Writs of the Great or Privy-Seal, &c.

C A P. XV.

How the *Remembrancers* shall use a Judgment of *Livery* coming out of any Court into the *Exchequer*.

C A P. XVI.

Appoints the Clerk's Fee settled for making of a Commission, or Record of *Nisi Prius* in the *Exchequer*.

In the next Parliament, 1382, of 5^o Richard II.

C A P. I.

It was Provided, That Merchants Strangers may freely come into this Realm, continue here, and depart hence at their Pleasures.

C A P. IV.

The King Wills and Commands, and it is assented in *Parliament*, &c. by the Prelates, Lords and Commons, that all and singular Persons, and *Commonalties*, which from henceforth shall have the Summons of *Parliament*, shall come to *Parliaments* in the manner as they are bound to do, and have been accustomed within the Realm of England of old times. And if any Person of the same Realm, who from henceforth shall have the said Summons (be he Archbishop, Bishop, Abbot, Prior, Duke, Earl, Baron, Banneret, Knight of the Shire, Citizen of City, Burgefs of Borough, or other Singular Person or Commonalty) do absent himself, and come not at the said Summons, (except he may reasonably and honestly Excuse him to our Lord the King) he shall be amerced, and otherwise punished, according as of old times had been used to be done within the said Realm in the like Case. And if any Sheriff of the Realm be from henceforth negligent in making his *Returns of Writs* of the Parliament, or that *He leave out of the said Returns any Cities or Boroughs, which be bound, and of old times were wont to come to the Parliament, he shall be amerced, or otherwise punished in the manner as was accustomed to be done in the said Case in times past.*

At the Parliament held at Westminster, 6° Rich. II.

C A P. I.

Is a Confirmation of the Church and Kingdom, and of all Statutes not Repealed.

C A P. II.

Actions of Debt, &c. shall be commenced in the Counties where the Contracts were made.

C A P. III.

Appoints in what Courts Writs of Nufance called *Vicountiels*, shall be perfued.

C A P. IV.

Deeds that were inrolled, and lately imbezled by *Rebels* in any *Insurrection*, being *Exemplified*, shall be of the same Force as the *Deeds* themselves.

C A P. V.

Justices of *Affize* and *Goal-delivery* shall hold their *Sessions* in the Principal Towns of the County.

R r r r r 2

C A P.

C A P. VI.

Both the Ravisher and Party Ravished (where she consents after the Fact) are disabled to have or Challenge any Inheritance, Dower, or Joint Estate, after the Death of their Husband, or Ancestor.

C A P. VII.

Ordains, at what Price Sweet Wines may be Sold.

C A P. VIII.

Where no *English* Ships are to be had, Men may bring in, or carry out their *Merchandizes* in Stranger's Ships.

The Occasion of making this Law, as appears by the Preamble to it, was, That there had been lately made in this very *Parliament* a Statute; that no Goods or Merchandize should be carried out of the Kingdom by the King's Subjects, except it were in *English* Vessels; which upon Tryal being not found sufficient, the *English* Merchants had hereby a *License* to Hire Foreign ones where the *English* were wanting. This I take notice of, to let the Reader see, that the Project of forbidding *English* Merchants to Trade with Foreign Shipping, being highly for the encrease of our own Naval Strength, was set on Foot very early, tho' it could never have any due effect 'til the Twelfth Year of *Charles* 2d. when it was passed into a Statute, *That no Foreign Commodities shall be Imported, or Exported, out of any Territories belonging, or which may belong, to the King, in Asia, Africa, or America, in other Vessels than such as belong only to the People of England, &c. whereof the Master and three fourths of the Mariners are English, on pain to lose such Goods and Vessels, with all its Furniture.*

C A P. IX.

No Victualler shall Exercise a Judicial Place in any City, or Town Corporate.

C A P. X.

Aliens being in *Amity* with the King and the Realm, may bring in Victuals, and Sell them in gros.

At a Parliament held at Westminster, 7th, Rich. II.

C A P. I.

Contains a Confirmation of the Liberties of the Church and Kingdom, as before.

C A P.

C A P. III.

A Jury for a Trespass within a *Forest*, shall give their *Verdict* where they receive their *Charge*, and shall not be menac'd to give their *Verdict* of a Trespass done in the *Forest*.

C A P. IV.

None shall be taken or imprisoned by the Officers of the *Forest* without *Indictment*, or being taken in the *Act*, or *Manner*.

C A P. VI.

The Statute of *Winchester* is Confirm'd, and that every *Sheriff* shall Proclaim it four times in the Year in every *Hundred*, or *Market-Town*, as well within *Liberties*, as without.

C A P. VII.

Appoints in what Case a *Nisi-Prius* may be granted at the Request of any of the *Jurors*, to avoid delays in Tryals.

C A P. VIII.

Ordains That no Subjects whatever shall take any *Victuals* or *Carriage*, without the consent of the Owners, and present Payment.

C A P. IX.

Is a Confirmation of all Statutes made against *Deceit in Clothes* to be Sold, and against *Aulnagers* and Collectors of the Subsidy of Clothes, with other Clauses, which being now obsolete, I omit.

C A P. X.

Appoints an *Affize of Novel-Disseisin* issuing forth of Lands in divers Counties, shall be taken in *Confinio Comitatus*.

The Eleventh being a Repeal of divers Statutes, I omit.

C A P. XII.

Contains a Confirmation of the Statute of 3 *Rich. 2d*, That no *Alien* shall Purchase any Benefice of the Church, or Occupy the same, without the King's License. But of this I shall say no more here, having recited it at large among the Church-Affairs of this Reign.

C A P. XIII.

Appoints that no Man shall Ride in *Harneis* (that is in *Armour*) of with *Lance-gays*.

C A P. XIV.

Ordains, That they who shall depart the Realm by the King's License, may make General *Attornies* to answer in Writs of *Præmunire Facias*, as in other Writs and Plaints.

C A P. XV.

Is a Confirmation of certain Statutes made against *Maintenance* and *Champerty*.

In the 8th Year of Richard the II^d, A. D. 1384. in a Parliament held at Westminster.

C A P. I.

That the Liberties of the *Church*, and all Statutes not Repeal'd, shall be Confirm'd.

C A P. II.

Ordains, That no Man of Law shall be Justice of *Affize*, or *Goal-Delivery* in his own County, which Law holds good to this day.

C A P. IV.

Appoints the Penalty, if a Judge or Clerk make a *False Entry* of a Plea, *raze a Roll*, or change a *Verdict*.

C A P. V.

Ordains, What Suits shall be discussed before the *Constable* and *Marshal* of *England*, viz. only such as cannot be Tryed, or Decided at *Common-Law*.

At the next Parliament held at the same Place, 9^o Rich. II.

C A P. I.

Is a Confirmation of all Statutes not Repealed, and Ordains that they shall be put in Execution.

C A P. II.

Concerning *Villains* Suing their Lords, is now become obsolete.

C A P. III.

That He in Reversion shall have an *Attaint*, or Writ of Errour, upon a *False Verdict* found, or upon an *Erroneous Judgment* given against the particular Tenant in Possession; and if such Tenant be dead at the time of such Judgment, that Restitution should be made of the same Tenants to the Party Suing, with the *Issues* and *Profits* in Arrear.

C A P. V.

Appoints what *Fees* shall be Paid by *Priests* taken in the Marshalse of the King's House (*to wit*) no more than *Lay-People* shall Pay.

At a Parliament Held in the 10th of Richard the II^d,
A. D. 1386.

C A P. I.

The King by a Statute for that purpose, Granted a Commission to His Chancellor, Treasurer, and Keeper of His Privy-Seal, and to certain Bishops, and Temporal Lords, and others, to be of His Council for One Year, to Survey and Examine the Estate of His House, Courts, and all Places of His Realm, and all His Officers or Ministers, with His Rents, Revenues, and Profits, and all His Gifts, Grants, Alienations, and Confirmations, in Money and Bullion, His Prisoners, and Towns taken in War, Benefices of Aliens, Money carried out of the Realm, His Customs and Subsidies of all Merchandizes, His *Disms* and *Quinzimes* Granted to Him; the Profits of His *Hanoper*, and all other His Receipts; the Fees and Wages of His Officers, Annuities, and Rewards, Gifts and Grants made by His Grandfather, Father, or Him, to any Person, His Lands, His Rents, &c. Sold to the prejudice of Him and His Crown; and to correct and amend the same Defaults and Offences.

This is the Contents of that notable Statute, upon the Breach of which the Duke of Gloucester, and the rest of the Confederate Lords had so great a Struggle with the King, as you may remember in the History of this Year.

At the next Parliament held in the Eleventh Year, in the First, Second, Third, Fourth, Fifth and Sixth Chapters.

The Duke of Ireland, and Archbishop of York, with Three others were Appeal'd of High-Treason, for Assembling by Force, and for
Conspiring

Conspiring to destroy the King, the Realm, and the Lords, and Commissioners by Him Authoriz'd ; whereupon it is *Ordained*, That the said Five *Traitors* be *Attainted* of *High-Treason* by Parliament, and the King shall have the *Forfeiture* of their Lands and Goods.

The Particulars of this *Condemnation* being set down at Large in the History, I do but just mention them here ; and tho' they were afterwards *Repeal'd* in the 21st of this King, yet that *Repeal* was annull'd, and they were again Confirm'd in the first of *Hen. 4th*, as you will find in the Statute-Book.

In the 11th year of this King, at the Parliament held at Westminster, Anno Dom. 1387.

C A P. VII.

Ordains, That all *Merchants*, *Aliens* and *Denizens* may Buy and Sell Wares, *Vituals*, and all other Commodities within the Realm without Disturbance ; and also what Penalty shall be inflicted upon them which do disturb such Merchants in Selling their Commodities, saving to the King the Customs and Duties out of the said Merchandizes ; with other Clauses, needless here to be further recited.

C A P. VIII.

Certain *Annuities* Granted by the King His Father, and Grandfather, are made void.

C A P. IX.

Ordains, That no *Imposition* or Charge be put upon *Wools*, *Leather*, or *Woolfels*, other than the Subsidy Granted to the King in this present Parliament ; and if any be, the same shall be *Repealed* and *Annull'd*, as it was another time Ordained by Statute ; Saving always unto the King His ancient Right.

C A P. X.

It is Ordained and Established, That neither Letters of the *Signet*, nor of the King's *Privy-Seal*, shall be from henceforth sent in Damage or Prejudice of the Realm, nor in disturbance of the Law.

C A P. XI.

Ordains, the former Statute for keeping of *Affizes* in good Towns, be referred to the Consideration of the *Chancellor* and *Justices* to Act therein as they shall think fitting.

At a Parliament held at Canterbury in the Twelfth Year
of Richard II. A. D. 1388.

C A P. I.

The Liberties of the Church, and all former Statutes not Repeal'd,
are again Confirm'd.

C A P. II.

It is Ordain'd, That the Chancellor, Treasurer, and Keeper of the Privy-Seal, with the Great Officers of the Household, and Justices of the Benches therein Named, that shall be called to Name and Ordain Justices of the Peace, Sheriffs, Escheators, Customers, Comptrollers, or any other Officer, or Minister of the King, shall be firmly Sworn, that they shall not Name or Ordain any Officers or Ministers for any Gift, or Brocage, Favour or Affection, and none that Sueth by himself for any Office, shall be put into the same, or any other, but that all such Officers and Ministers be made of the best and most Lawful and Sufficient Men, according to their (*i. e.*) the Chancellor's, Treasurer's, &c. Judgment, and Knowledge.

C A P. X.

Ordains, That in every Commission there shall be but Six Justices assigned, who shall keep their Sessions every Quarter at least, on pain to be Punished at the Discretion of the King's Council.

Every Justice of Peace shall have for his Wages 4 s. a Day, and the Clerk of the Peace 2 s. for so long time as the Sessions shall last, to be paid by the Sheriffs out of the Fines and Amerciaments arising at the same Sessions, whereunto Lords of Franchises shall be also contributory; after the Rate of their part of such Fines and Amerciaments, with some other Clauses needless to be recited.

C A P. XI.

Recites the former Statutes against those that shall devise, speak or tell any false News, or Lyes of any Lords, Officers, or Great Men of the Realm; and that when any one hath spoken such Falshoods, contrary to the afore said Statute, and cannot produce the Author, and is thereupon Imprisoned, he shall afterwards be Punished by the King's Council, notwithstanding the Statute of Westminster, I. according to which they were to be Punished before.

C A P. XII.

That as to the Right of Levying the *Expences of Knights* coming to the Parliament for the Commons of Counties, it is accorded, that the said Levies be made as hath been used before this time; and further, that if any Lord, or any other Man, Spiritual or Temporal, hath Purchased any Lands or Tenements, &c. which were wont to be Contributory to such *Expences*, the said Lands, Tenements, &c. shall still continue to be so charged as the same were wont to be before the time of the said Purchase.

C A P. XIII.

Appoints the Punishment of those that shall cast *Garbage*, or other Filth, into the Rivers or Ditches near any City, or Great Town, whereby the Air might be corrupted.

At a Parliament held the 13th of Richard the Second,
A. D. 1389

C A P. I.

Ordains, That the Statute of 25 *Edward* be confirmed, touching the Examination of the King's Title to a *Benefice*, when He Presenteth in another's Right, and where the King Presenteth to a *Benefice* full of an Incumbent, His *Presentee* shall not be received, until He hath recovered it by Law.

C A P. II.

Ordains, That the *Constable* and *Marshal* of *England* hath only Cognisance of things concerning Arms and Wars, which cannot be discussed by the Common Law. And in this Court the Plaintiff shall plainly declare his Matter in his Petition before the Defendant be sent for; also when a Plea is commenced before the *Constable* and *Marshal*, which may be Tryed at the Common Law, the Party grieved shall have a *Privy-Seal* to cause the *Constable* and *Marshal* to cease, until it may be discussed by the King's Council, whether it may be Tryed there, or at the Common Law.

C A P. III.

Appoints, that the Limits of the *Steward* and *Marshal* of the King's House, and the Jurisdiction thereof, shall not exceed the space of Twelve Miles, to be accounted from the King's House, or Lodging.

C A P. IV.

Sets forth the Liberty of the *Clerk* of the *Market* of the King's Household, which is now obsolete.

C A P. V.

That the *Admirals* or their *Deputies* shall not meddle with any thing done within the Realm, but only upon the *Sea*.

C A P. VI.

Ordains, That there shall be but Thirty Serjeants at Arms, who shall meddle with nothing, but touching their own Offices.

C A P. VII.

That notwithstanding the Statute of 12 Rich. 2. Cap. 10. which Prohibits the Stewards of Lords to be Justices of the Peace, the most sufficient Knights, Esquires, and Gentlemen of the Law shall be put in Commission, and Sworn to put in Execution without favour, all Statutes which concern their Office.

C A P. VIII.

Appoints the Rates of *Artificers*, Labourers, and Workmens Wages shall be assed, and proclaimed by the Justices; and the Gains of *Victuallers* shall be assed by them, and who shall make Horse-Bread, and the Weight and Price thereof. This is obsolete, but the rest of the Statute remains still in Force.

C A P. IX.

That there shall be but one *Weight* and *Measure* throughout *England*, and he that shall be Convict to have used any other, shall suffer six Months *Imprisonment*, and yield double Damages to the Party grieved, except in *Lancashire*.

C A P. X, and XI.

Sets out the Length and Breadth of *Cogware*, and *Kendal-Cloath*, and that the Cloaths of certain Counties tacked and folded, shall not be put to Sale before they be opened. But this is now become obsolete.

C A P. XIII.

Provides, That no *Layman* who had not Lands of 40*s. per Ann.* nor *Clerk* who had not 10*l. Revenue per Annum*, shall have or keep any *Greyhound*, *Hound*, *Dog*, *Ferret*, *Net* or *Engine*, to destroy *Deer*, *Hares*, *Conies*, or any other *Gentleman's Game*, on pain of one whole Years Imprisonment, which Justices of Peace shall have Power to inflict.

C A P. XIV.

That there shall be no *Recognizances* or other *Bonds of the Double*, made or taken in the *Exchequer* for the time to come, &c.

C A P. XV.

That the King's Castles and Goals which were wont to be joined to the Bodies of the Counties, and are now severed, shall be rejoyn'd to the same.

C A P. XVI.

* *i. e.* Because the Party was going beyond Sea, on the King's Service.

Appoints, that no *Protection* with the Clause of * *Quia Profecturus* shall be allowed in any Plea, whereof the Suit was Commenced before the Date of such *Protection*, except in a Voyage, where the King goeth in Person, or other Voyages Royal: or in the King's Messages: Howbeit this Act shall not infringe *Protections* with the Clause of *Quia moraturus*, *i. e.* when he was to stay abroad in the King's Service, with other Clauses needless to be recited; because this Statute is become obsolete.

C A P. XVII.

Provides, That when Tenants for term of Life, in *Dower*, or by the Courtesie of *England*, or in *Taile* after possibility of *Issue extinct*, shall be impleaded, and He in the Reversion come into the Court, and prayeth to be received to defend his Right, at the day that the Tenant Pleadeth to the Action, or before, he shall be received to Plead in Chief to the Action, without having any delay by *Voucher*, *Aid-Prayer*, *Non-age*, or any other Delay; so that after such Receipt, the Business shall be hastened as much as may be by the Law, without any delay whatsoever on either side; with other Clauses which the Reader may find in the Statute, which was made to prevent the *Collusion* of such Tenants for Life, who would not Vouch to Warranty them in the *Reversion*, on purpose that they might lose their Rights.

C A P. XVIII.

Provides, That upon a *false Verdict* given before the Mayor and Bayliffs of *Lincoln*, an *Attaint* may be brought and Tryed by Foreigners of the said County of *Lincoln*.

C A P. XIX.

Contains a Confirmation of the Statute of 13 *Edw. I. Cap. 47* touching the taking of *Salmons*.

Other Statutes made at another Sessions of the same Parliament at Westminster in the said Thirteenth Year of Richard II. A. D. 1389.

C A P. I.

Ordains, That in a *Pardon* of Murther, Treason, or Rape, the Offence committed shall be specified, and no *Pardon* of Treason or Felony shall pass without Warrant of the *Privy-Seal*, with the Forfeiture of him at whose Suit such a *Pardon* is obtain'd without it.

C A P. II.

Is a Confirmation of the Statute of *Provisors* made *Anno 25 Edw. 3.* and the Forfeiture of him that accepteth a Benefice contrary to that Statute; of which I have said enough already under the Title of *Church-Affairs*, to insist any longer upon this.

C A P. III.

Ordains, The Penalty of him who bringeth any Summons, Sentence, &c. against any Person upon the Statute of *Provisors*, and the Penalty of a Prelate executing such Sentence, &c. which is also mention'd in the same Place.

Statutes made at Westminster, An 14 Rich. II. Anno Dom. 1390.

C A P. I.

That the *Staple* shall be removed from *Calice* into *England*, to certain Cities and Towns there named, and that all Merchants *Alien* shall bestow half the Money received upon the Commodities of this *Realm*. This tho' obsolete deserves our notice.

C A P. II.

Ordains, That for every *Exchange* that shall be made by Merchants to the Court of *Rome*, or elsewhere, the said Merchants be firmly and surely bound in the *Chancery* to buy within three Months after the said *Exchange* made, Merchandises of the *Staple*, as Wools, Leather, Woollfells, Lead, or Tin, &c. or other Commodities of the Land, to the value of the Sum so exchanged; upon pain of Forfeiture of the same.

C A P. III.

That in every Port and Place where the *Staple* shall be, the Mayors, Constables, Brokers, and all other Officers and Ministers of the *Staple* shall be *Sworn*, first to the *King*, and after to the *Staple*.

C A P. V.

Ordains, that no Denizen carry *Wools*, *Leather*, *Woollfells*, nor *Lead*, out of the Realm of *England*, to the Parties beyond the Sea, upon pain of Forfeiture of the same, but only Strangers.

C A P. VI.

Ordains, That all Merchants of the Realm of *England* shall Freight their Wares in Ships of the said Realm, and not Foreign Ships; so that the Owners of the said Ships take reasonable gains for the Freight of the same.

C A P. VIII.

That none of the King's Liege-People be from henceforth Distrained, Impeached, Molested, nor Grieved in the *Exchequer*, nor elsewhere, for not Gauging of *Rhenish* Wines.

C A P. IX.

Ordains, That Merchants Strangers resorting into this Realm shall be kindly used, and not oppressed.

C A P. X.

That no Customer, or Comptroller shall have any Ship of his own, nor shall have his Office, but at the King's Pleasure.

C A P. XI.

Provides, That there shall be *Eight Justices of Peace* assigned in every County, and that *Double Estreats* of the *Fines* and *Amerciaments* arising at the *Sessions* shall be made, containing the Names of all the Justices there present, with the number of Days they Sit, and one of them deliver'd to the *Sheriff*, out of which he is to answer to the Justices their *Wages* by Indenture, according to which the *Sheriff* shall be again allowed the *Wages* in the *Exchequer* upon his Account; but no Duke, Earl, Baron, or * *Banneret*, (altho' he be Justice of Peace, and holds *Sessions* with the other Eight) shall have any *Wages* allowed Him.

* This was a Baron called by Writ to one or two Parliaments. See Selden's *Titles of Honour*, Parl. 2. p.

Statutes made at Westminster 15 Rich. II. A. D. 1391.

C A P. I.

Contains a Confirmation of all former good Statutes not Repeal'd.

C A P. II.

All the former Statutes concerning *Forcible Entries* and *Riots*, are Confirm'd, with the Duty of Justices of the Peace, when any *Forcible Entry* is made into Lands.

C A P. III.

Ordains, That the *Admirals*, or their *Deputies*, shall not meddle with any thing done within the Realm, but only upon the *Sea*, and that the *Admiral's* Court shall not have Cognifance of any thing done within the Bodics of Counties, as well by Land as by Water, not with *Wrecks* of the *Sea*; yet nevertheless concerning the *Death* of a Man, and of a *Maibem* done in great Ships hovering in the main Stream of great Rivers (beneath the Bridges near the *Sea*) the *Admiral* shall have Cognifance, and likewise to *Arrest* Ships for the great Voyages of the King and Kingdom; and shall also have Jurisdiction over such Fleets during such Voyages, saving to the King his Forfeitures, and to Lords, Cities and Boroughs, their Liberties and Franchises.

C A P. IV.

Appoints, that there shall be but Eight *Bushels* of Corn striked to each *Quarter*.

C A P.

C A P. V.

Declares, that it is within the compass of the Statute of *Mortmain*, to convert any Land into a Church-yard; and it is also *Mortmain* where some are seised of Lands to the Use of Religious or Spiritual Persons; and it is *Mortmain* to Purchase Lands for the Use of any Guilds, Fraternities, Offices, Commonalties, &c.

C A P. VI.

Ordains, that in all *Appropriations* of Benefices, there shall be some Provision made for the *Poor*, and the *Vicar* of the Parish.

C A P. VII.

Gives leave that Armour, Corn or Victuals may be carried to *Berwick*, notwithstanding the Statute of 7 *Rich. 2. Cap. 16.*

C A P. IX.

Ordains, that the Mayor of the *Staple* shall take *Recognisances* for Debts according to the Statute of 27 *Edw. 3. Cap. 9.*

C A P. XII.

That no Man shall be Compelled to answer for his Freehold before the Council of any Lord, or Lady.

Statutes made at Westminster, 16^o Rich. II. A. D. 1392.

C A P. I.

That no Merchant Stranger shall Buy or Sell with another Merchant-Stranger, in order to Sell again the same Commodities in *England*.

C A P. II.

Is a Confirmation of the Statute of 15 *Rich. 2. Cap. 12.* with a Penalty to the Offenders thereof.

C A P. III.

That the *Clerk* of the *Market* shall carry with him all his *Weights* and *Measures* Signed.

C A P. V.

Ordains, That none shall Purchase *Bulls* or other Instruments from *Rome*, or elsewhere, on pain to incur a *Præmunire*, and that the Crown of *England* is subject to none. I have recited this Chapter at large in Church-Affairs, and therefore shall say no more of it here.

C A P. VI.

Ordains a Repeal of part of the Statute of 13th Rich. 2. touching the *Forfeiture* of him that obtaineth a *Pardon*, without expressing the Name of him at whose Suit the said *Pardon* was obtained.

Statutes made at Westminster, 17^o R. 2. A. D. 1393.

C A P. I.

Ordains, That no *Sterling* Money shall be Melted for Vessel, and that *Foreign* Money shall not be current in *England*, and that there shall be no Exchange of *English* with *Scotish* Money.

C A P. II.

That every Man may make *Cloth* of what length and breadth he will; no *Cloth* shall be Sold before it be *Measured* and *Sealed* by the *Aulnager*, and that there shall be no Deceit in *Cloths*.

C A P. III.

Appoints what sort of *Worsted*s may be carried forth of the Realm, and what not.

C A P. IV.

That *Mault* Sold to *London* shall be well cleansed from the *Dust*.

C A P. V.

That a *Searcher*, *Gauger*, *Aulnager*, *Customer*, shall have no assured Estate in his Office.

C A P. VI.

Ordains, That forasmuch as People be Compelled to come before the King's Council, or in the Chancery, by Writs grounded upon untrue *Suggestions*, that the *Chancellor* for the time being, presently after that such *Suggestions* be duly found and proved untrue, shall have power to Ordain and Award *Damages* according to his Discretion, to him who is so troubled unduly, as afore said.

C A P. IX.

That the *Justices of the Peace* shall be Conservators of the Statutes made touching *Salmons*.

C A P. X.

Ordains, That Two Learned Men in the Law shall be in Commission of *Goal-Delivery*.

*Statutes made at a Parliament at Westminster, 20 Rich. 2.
A. D. 1396.*

C A P. I.

Ordains, That no Man shall Ride *Armed*, and that *Launcegays* shall be quite laid aside.

C A P. III.

It is Ordained, That no Man shall sit upon the *Bench* with the *Justices of Assize*.

C A P. IV.

That Merchant-Strangers after they have Sold their Goods, and the Custom thereof be duly Paid, may freely depart and go with their Ships, and the remnant of their Goods where they please, without Paying any more Customs, or Duties.

C A P. V.

Sets forth the Penalty of Him who doth take any Person's Horse or Beast to serve the King, without due Warrant for it.

Statutes made at Westminster, 21 Rich. II. A. D. 1397.

But all these being either obsolete, or repealed, I pass by ; among which is a *Repeal* of the Statutes made at *Westminster*, and *Shrewsbury*, of which I have given a large Account in the History.

Here

Here follows the late Lord Chief Justice Hale's Account of the State and Progress of the Laws during this King's Reign.

RICHARD the Second succeeding His Grandfather, the Dignity of the Law, together with the Honour of the Government, by reason of the weakness of this Prince, and the Difficulties occurring in His Government, seem'd somewhat to decline, as may appear by comparing the twelve last Years of *Edw. 3d*, commonly called the *Quadragesimes*, with the Reports of *Richard 2d*, wherein there appears a visible Declination of the Learning and Depth of the Judges and Pleaders. It is true, we have no entire Reports Printed of *Richard the Second's* Reign, but yet I have seen in Manuscript the entire Years and Terms of this King, out of which, or some other Copies thereof I suppose *Fitzherbert* abstracted his Abridgment of those broken Causes. The Quadragesimes.

In all these former Times, especially from the end of *Edward the Third*, to the beginning of *Edward the Fourth*, the Learning of the Common Law consisted Principally in *Affizes* and *Real Actions*, and rarely was any Title determined in a *Personal Action*, unless in case of the Title of Rents or Services by *Replevin*; and the Reasons were Principally these. First, Because those Antient Times were great favourers of the *Possessor*; and therefore about the Reign of *Edward the Second*, if a *Disseisor* had been in Possession by a Year and a Day, he was not to be put out without a Recovery by *Affize*. Again, if the *Disseisor* had made a Feoffment, they did not Countenance an Entry upon the *Feoffee*, because he might thereby lose his *Warranty*, which he saved being impleaded in an *Affize* or Writ of *Entry*, and by this means *Real Actions* were most frequent, as also *Affizes*. Secondly, They were willing to quiet Men's Possessions; and therefore after a *Recovery* or *Bar* in an *Affize* or *Real Action*, the Party was driven to an Action of an higher nature. Thirdly, Because there was then no known Action, wherein the Party could ordinarily Recover his *Possession* otherwise, than by an *Affize* or *Real Action*; for 'till the end of *Edward the Fourth*, the *Possession* was not recovered in an *Ejectione Firmæ*, but only Damages. Fourthly, because an *Affize* was a speedy and effectual Remedy to recover the *Possession*, the Jury being ready Empanel'd, and at the Bar, the first day: and altho' not by Disusage, the Practicers of the Law are not so ready in it now, yet the *Process* thereof in those times, was as well known to all Professors of the Law, as now the Course of an *Ejectione Firmæ* is.

*Church-Affairs in this King's Reign, Relating
to the Encroachments of the Pope in the Matter of
Provisions to Bishopricks, &c.*

Rot. Parl.
1 Rich. 2.
N. 77.
Cont. Abr. 161.

AS in the last Reign, so in this, the Pope practised his Encroachments upon the Church and State, therefore in the first Parliament of this King, the Commons Petition, That whereas in the Treaty between K. *Edward* the 3^d, and the Pope, He had consented to abstain from all manner of *Provisions* by way of *Reservation* of Benefices, especially of such Dignities as were *Elective*; yet the Court of *Rome* had no regard to the King's Messengers sent thither about this Matter; but the Pope still continued his former Practices, contrary to the Treaty, Grant, and Accord with the said King *Edward*, to the great prejudice of Himself, and his Subjects, wherefore they pray Remedy.

2. Rich. 2.
N. 78.

What Remedy they had then, I find not; but the next Year, in opposition to certain Rebel Cardinals, there was an Act passed, that *Urban* was duly Elected and declared to be the true Pope, and as such, Head of *Holy Church*, He ought to be Accepted and Obeyed; and to this all the Prelates, Lords and Commons agreed.

See the Stat.
at large,
3 Rich. 2. c. 3.

The next Year the People Complained and Petitioned, shewing, that Cathedral and Collegiate Churches, Abbeys, Priories, and other Benefices of the Kingdom were filled with Men of another Language, and of strange Lands and Nations, and sometimes Enemies of the King, and Kingdom, which never made Residence in the same, or performed the Charge thereof. Whereupon the King by Advice and common Assent of all the Lords Temporal, Ordained, that none of His Liege People of what Condition soever they were, should take or receive any Procuracy, Letter [of Attorney, Farm, or other Administration by Indenture, or in any other manner, of any Benefice within *England*, but only of the King's Subjects, without his special License, by Advice of His Council, nor send out of the Kingdom any Gold, Silver, or other Treasure or Commodity by Bill of Exchange, Merchandise, or any other manner; and those that did the contrary, should incur the Pain and Punishment contained in the Statute of *Provisors*.

Yid. the Stat.
7 Rich. 2.
Cap. 12. &
Rot. Parl.
N. 49.

Yet it appears by the Complaint and Petition of the Commons, with the Assent of the King and Lords Temporal, that this *Prohibition* proved ineffectual for the end intended; and therefore it was reinforced, and in his seventh Year agreed by the King, the Lords Temporal, and Commons, that the same Statutes shall keep their Force and Effect in all Points; and that all *Aliens* who have Purchased or shall Purchase any Benefice, Dignity, or thing of *Holy Church*, and in his proper Person take possession of the same, or use it himself within the Kingdom to his own Benefit, or of any other, without special License of the King, shall be comprised in the same Statute.

But neither had this Reinforcement its due effect; and therefore in His Twelfth Year it was Ordained and Assented by the Parties aforesaid, That no Liegeman of the King, of whatsoever Estate or Condition he be, should pass over the Sea, nor send out of the Realm of *England* without special leave of the King Himself, to provide or purchase for himself *Benefice* of *Holy Church* with Cure or without Cure in the said Realm; and if any do, and by vertue of such *Provision*, accept by him; or by any other, any *Benefice* of the same Realm, that at that time the same *Provisor* shall be out of the King's Protection, and the same *Benefice* become void; so that it shall be Lawful for the *Patron*, as well Spiritual as Temporal, to present to the same an able Clerk at his pleasure.

Nor could this hinder *Provisions*, Gifts, and Sale of *Benefices* of all sorts by the *Pope*; for in the next Year the *Commons* require the King that the Statute of *Provisors* made in the 25th of *Edward I.* might be recieved in Parliament; and then it was also Ordained and Established, that if any accept of any *Benefice* of *Holy Church*, contrary to that Statute, and it be duly proved, he being beyond Sea, that then he shall abide Exiled, and Banished out of the Realm for ever, and his Lands and Tenements, Goods and Chattels Forfeit to the King; and if he be within the Kingdom, he should be also Exiled, and Banished, and incur the same Forfeiture, and avoid the Realm within six Weeks next after such acceptation. And if any one receive such Person after the six Weeks are expired, he shall be Banished, and incur the same Forfeiture.

And it was then further Ordained, and Established, that if any Man brought or sent within the Kingdom, or the King's Dominions, any Summons, Sentence, or Excommunication against any Person of whar Condition soever he be, for the Cause of making any *Motion*, *Assent* or *Execution* of the Statute of *Provisors* (as above) he shall be taken, Arrested, and put in Prison, and Forfeit all his Lands and Tenements, Goods and Chattels for ever, and moreover incur the pain of Life and Member: and if any *Prelate* make Execution of such Summons, Sentences, or Excommunications, that his Temporalities be taken, and abide in the King's Hands 'till due Redress and Correction be therefore made; and if any Person of less Estate than a *Prelate*, of what Condition soever he be, make such Execution, he shall be taken, Arrested, and put in Prison, and make Fine and Ransom by Discretion of the King's Council.

Notwithstanding [1.] this Care and these Laws made against the Pope's Practices in this Kingdom, the Commons in the Parliament, of the Sixteenth Year of this King, shewed unto Him, grievously Com-
 Vol. III

Ib. 13 *Rich.* 2.
Cap. 2.

Ib. *Cap.* 3.

[1.] *Ib.* 16
Rich. 2. 5 *cap.*
Rot. Parl.
N. 20.

These are the
words of the
Parliament
Roll,
16 Rich. 2.
N. 20.

Judgments by the King's Commands of all the time aforesaid, without interruption; (for another lay Person could make such Execution) and also they were bound of *Right* to make Execution of many other of the King's Commands, of which Right the Crown of *England* had been peaceably Sealed until this day: But now of late divers *Processess* have been made by the Bishops of *Rome*, and Censures of *Excommunication* upon Certain Bishops of *England*; because they had made Execution of such Commands, to the open Disherison of the Crown, and Destruction of the King, his Laws, and all his Kingdom, if Remedy be nor provided: They further Complain of the Pope's Translation of Bishops from Bishoprick, to Bishoprick, and sending some out of the Kingdom, who were fit to be of the King's Council, and able to give Him Advice, without his Assent, and against his Will: **So that the Crown of England, which had been so free at all times, that it had been in Subjection to no Earthly Sovereign, but immediately Subject to God, and to none Other, in all things touching the Regaly or Royalty of the Crown, should be submitted to the Bishop of Rome and the Laws and Statutes of this Realm by Him Defeated and Destroyed at his Will. in perpetual Destruction of the King his Crown and Regaly, and all his Realm, which God forbid.** Wherefore they declare, that they and all the Liege Commons of the Kingdom, would stand by the King, his Crown, and Regaly in the Cases aforesaid, and in all other Cases attempted against Him, his Crown and Regaly in all Points to live and die. And further they pray the King, and him require by way of Justice, that He would ask all the Lords in Parliament, as well Spiritual as Temporal, Severally, and all the States of Parliament, what they thought of the Cases aforesaid? Whereupon the Lords Temporal being so asked, answered every one by himself, that the Cases aforesaid were clearly in Derogation of the King's Crown and of his Regaly, as it was well, and had been a long time known; and that they would be with the Crown and Regality in these Cases especially, and in all others which shall be attempted against them in all Points, with all their Power. That Answer of the Lords Spiritual to the King's Demands, was much to the same purpose as that of the Lords Temporal, will best appear from the Arch-Bishops *Protestation* (so called upon the Parliament Roll, as 'tis transcribed in Dr. Brady's *Appendix* to his last Volume, Number 118. and there translated from the *French* Record, to which I refer the Reader.

Rot. Parl.
16 Rich. 2.
N. 20.

[2.] *ib.*

After [2.] which Answers given to the King by Assent of the Lords Spiritual and Temporal, at the Prayer of the Commons. It was Ordained and Established that if any one Purchase or Persue, or cause to be Purchased or Persued in the Court of *Rome*, or ellèwhere, any such Translations, Processess and Sentences of Excommunications, Bulls, Instruments, or any other things which touch the King, and are against Him, his Crown, Regaly, or Kingdom, as is aforesaid; then they that bring them within the Realm, or receive them, or make thereof Notification, or any other Execution within the Kingdom, or without, they, their Notaries, Procurators, Maintainers, Abettors, Fautors and Counsellors, shall be put out of the *King's Protection*; their Lands and
Vol. III. Tenements,

Tenements, Goods and Chattels forfeited ; and also attached by their Bodies, if to be found, and brought before the King and his Council, there to Answer; and that Process shall be made against them by *Premunire facias*, in manner as it is Ordained in other Statutes and Provisors.

After this there is nothing further that I have seen about these Controversies, the Pope being quiet all the rest of his Reign ; yet I shall take notice of some things done by the King relating to these Affairs, which were omitted in their due Place.

He [1.] caused *James Dardain*, the Pope's Collector in *England*, to [1.] *Rox. Cl.*
swear he would be faithful to Him and his Crown ; that he would not [12] *Rich. 2.*
do, permit, or procure to be done, any thing prejudicial to Him, his *M. 30. Dorf.*
Kingdom, Laws; and Rights ; and that he would not put in Execution any Papal Letters, or Mandates, or permit them to be put in Execution, that were prejudicial to the King, his Regality or Laws, and Rights, or to his Kingdom ; that he would not receive, or publish any of the Pope's Letters, but such as he should deliver to the King's Council, as soon as he could ; that he would not send any Money or Plate out of the Kingdom, unless he had special License from the King or his Council ; nor that he would introduce any Novelties, either by or without the Pope's Command, without the King's License, and that he would keep the King's Laws and Rights without violation. This Oath was taken *August 27th.* in the *12th.* of *Richard II.* before his Council, as appears by the Record it self.

Then [2.] the King wrote to *William Arch-Bishop of Canterbury*, that [2.] *ib. 13.*
he could not but know that he was bound by Oath for the Conservation of the *Rich. 2. part 1.*
Rights and Customs of the Kingdom, and for the Indempnity and Right Government of his People, that no Impositions upon the People could be made, *N. 17.*
or Levied any ways whatsoever, without the Common Council, or Consent of the Kingdom ; and farther, that He had been petitioned by the Commons lately Assembled in Parliament at *Westminster*, to provide Remedy against the Impositions upon the Clergy, at that time published and exacted by the Pope ; and also that any one that should bring in any Pope's Bulls to Levy such Impositions, or create such Novelties, not formerly used, which might bring Damage to Him or his Kingdom, or should publish such Impositions and Novelties, or Collect or Levy them, should be adjudged, and suffer as a Traitor to Him and his Kingdom : And further, that it was granted by Him, with Assent of the same Parliament, that nothing should be Levied or paid, which might tend to the Burthen and Damage of the Kingdom or Leize People : Tet all this notwithstanding, He was informed of a new Imposition upon the Clergy by the Pope, which by his Authority, or the Authority of his Suffragans by his Command, was to be levied without the Common Advice, and Assent of the Kingdom, which He might not suffer to be done, saving his said Oath, and then Commanded him, by the Faith in which he was bound to Him, and under forfeiture of all he could forfeit, to revoke all that had been done for the Levying and exacting of this Imposition, and to return what had been paid and Levied ; enjoyning him not to pay or contribute any thing to this Subsidy or Imposition, under the foresaid Faith and Forfeiture. Witness the King at *Westminster* the Tenth day of October.

10. The like Writ of the same Date was directed to the Arch-bishop of *Tork* and all the other Bishops of *England*, as also to the Guardians of the Spiritualities of the vacant Bishopricks; and several Collectors of this Imposition.

16. The like Writ was also directed to *James Dardain*, then the Pope's Nuncio, to desist from the exacting of this Imposition, under the forfeiture of Life and Members, and all things he could forfeit. Witnessed as before.

This Imposition was the Payment of a *Tenth* by the Clergy to the Pope, by Him laid upon them, as appears by the *Todding*, or Title of the *Record* concerning Tenths not to be paid to the Pope.

16. 14. Rich. 2. M. 13. In the Fourteenth Year of his Reign He caused Proclamation to be made throughout *England*, to call from *Rome*, under forfeiture of Life and Member, and all they could forfeit, Several Persons that had gone thither to procure the Nulling and Vacating of divers Statutes made by Him, and his Progenitors, with Consenc of Parliament, for the Common profit of the Kingdom; and to perpetrate many other Evils there, to the Contempt; and prejudice of his Person, to the great Damage of the Kingdom and People, and to the manifest Cessation of the Laws and Customs thereof; that they should be in *England* by the Feast of St. Martin in Winter (or the Eleventh of November) at furthest; and that no man of what State or Condition soever he was, should bring any Pope's Bulls, Processes; or Instruments for the Adnulling or vacating of any of the Statutes, Laws or Customs aforesaid, or Obey them, or put them in Execution, under the forfeiture aforesaid. Witness the King at Westminster the third day of May. By the King Himself and Council,

16. This Proclamation was directed to the Sheriff of *Kent*, and all other Sheriffs of *England*; and to his Uncle *John Duke of Lancaster*, or his Chancellor in that Dukedom; and to *John Stanley* his Justitiary in *Ireland*, or his Lieutenant; and also his Justitiary of *Chester*, or his Lieutenant.

The Statutes for which the Persons went to *Rome* to have made void by the Pope, and were recalled by this Proclamation, were the Statute of *Provisors* last enacted, the Statutes of *Quare impedit*, and *Præmunire facias*, and such like, which the Pope said were against and injurious to Ecclesiastick Liberty; for the particular Account whereof see *Walsingham's History*, Fol. 344, & 345, A. D. 1391. 14. Rich. II.

Rot. Claus.
20 Rich. 2.
M. 3. Dors.

In the Twentieth Year of His Reign, on the Nineteenth of September, the King caused *Lewis Bishop of Vultura* in *Apulia*, the Pope's Collector, to take the same Oath before Himself in Chancery, which *James Dardain* had taken in the Twelfth of His Reign, before His Council.

Concerning John Wyckliff, and his Followers.

THE Opinions of *John Wyckliff* prevailed very much (as I said before) in the University of *Oxford*, and not a few Learned Men maintain'd them in the Schools, and Preached them up there, and in many other Places and Countries; insomuch that in the Fourth Year of this King, 1381, *William de Berton*, Chancellor of that University, calling together several Doctors of Divinity, and other Professors of

Spelman's
Concil. 2. Vol.
f. 267.

and Skilful in the *Canon-Law*, to Examine into those Opinions, they were upon great Debate and Consultation judged to be *Erroneous*, Repugnant to the Determinations of the Church, and Contradictory to Catholick *Verity*; and therefore *forbad* every one, of what Degree or Condition soever, under the pain of the *Greater Excommunication*, publickly to Hold, Teach or Defend the same in the *University*.

Upon the further spreading of these Opinions amongst the Great Men and Populacy, *William Courtney* Archbishop of *Canterbury*, and *ib. fol. 629;* Seven other Bishops of that Province, Fourteen Doctors of the Canon ^{630, 631.} and Civil Laws, Seventeen Masters of Divinity, and Six Batchelors of Divinity, on the Seventeenth of *May*, 1382, met in a Chamber of the *Fryar-Precachers* in *London*; where having Considered and Deliberated upon the Opinions and Conclusions, then divulged, Unanimously on the Seven and Twentieth of the same Month, Declared and Decreed some of them *Heretical*, others *Erroneous*, and contrary to the Determination of the Church.

The supposed *Heretical* OPINIONS were these.

1. **T**hat the Material Substance of Bread and Wine, remained after Consecration, in the Sacrament of the Altar.
2. Also, that the Accidents do not remain with a Subject after Consecration in the same Sacrament.
3. Also, that Christ is not in the Sacrament of the Altar, Identically, Truly and Really, in his proper Corporeal Presence.
4. Also, that if a Bishop or Priest be guilty of Mortal Sin, he can neither Ordain, Consecrate, nor Baptize.
5. Also, that if a Man were duly Contrite, all external Confession was superfluous and unprofitable.
6. Also, pertinaciously to assert, that Christ's having Ordained Mass, had no Foundation in the Gospels.
7. Also, that God ought to obey the Devil. [But this is too Blasphemous.]
8. Also, if the Pope be an ill Man, and by consequence a Member of the Devil, He hath no Power over the Faithful of Christ given Him by any one, unless perhaps by Cæsar.
9. Also, that after Urban VI. no Man is to be received as Pope, but we ought to live, as the Græcians, under our own Laws.
10. Also, to assert, That 'tis against Holy Scripture, that Ecclesiastics should have Temporal Possessions.

The supposed *Erroneous* CONCLUSIONS were these.

1. **T**hat no Prelate ought to Excommunicate any one, unless he first knew he was Excommunicated by God.
2. Also, that any one who did so Excommunicate, became thereby an Heretick, and Excommunicate himself.
3. Also, a Prelate Excommunicating a Clerk, who appealed to the King and his Council, is in very deed a Traytor to God, the King, and Kingdom.
4. Also, they that leave off Preaching, or hearing the Word of God, or Gospel Preached, for the Excommunication of Men, are Excommunicated, and shall be held for Traytors to God in the Day of Judgment.

5. Also, to assert that 'tis Lawful for any one, tho' a Deacon or Priest, to Preach the Word of God, without Papal or Episcopal Authority, or other, which sufficiently appeareth.

6. Also, to assert that none is a Civil Lord, none is a Bishop, none is a Prelate, while he is guilty of Mortal Sin.

7. Also, that Temporal Lords may at their pleasure take away Temporal Goods from Ecclesiasticks, being habitual Delinquents, or that the Populacy when they will, may correct Delinquent Lords.

8. Also, that Tythes are pure Alms, and that the Parishioners, for the Sins of their Curates, may detain them, and as they please give them to others.

9. Also, that particular Prayers applied to one Person, by Prelates or Religious, are no more Benefit to that Person, than General Prayers are to him, all other things being equal.

10. Also, in that very thing, that any one takes upon him of whatsoever private * Religion, he is made more unfit and unable to observe God's Commandments.

* i. e. Professions of Monks.

11. Also, Saints Instituting whatsoever private Religions, as well those with Possessions, as Mendicants, have Sinned in so Instituting.

12. Also, that Religious Persons living in private Religions, are not Christians.

13. Also, that Fryars are Bound to get their Food by the Labour of their Hands, and not by Begging.

14. Also, he that gives Alms to Fryars, or to a Fryar-Precacher, is Excommunicate, as well as he that receives it.

1b. 631, 632.

In pursuance of which Determinations, on the 20th Day of June, in the same Year and Place, Nicholas Hereford, Philip Rapyngdon, a Canon Regular, both Professors of Divinity, and John Ayshton Master of Arts, and Scholar in Divinity at Oxford, and the Chief Followers of Wyckliff, appeared Personally before the Arch-bishop, the said Doctors, and others, and there the said Nicholas and Philip were Commanded to Answer, and to speak fully and plainly what they thought of these Conclusions. Thereupon they gave in their Answers in Writing, *Protesting*, as otherwise they had done, that they intended to be humble and faithful Sons of the Church, and of *Holy Scripture*, and to obey in all things the Determination of the Church; and if they should commit any Error against this their Intention, either in Word or in Deed, they submitted themselves to the Correction of the Archbishop, and all others to whom it belonged to Correct them. This *Protestation* premised, they Answer, that the Substance of Material Bread and Wine remains in the Sacrament of the Altar after Consecration; and to hold contrary to the sense of the Decree of * *Firmiter Credimus*, *We grant is Heresie*.

* This is a Decree in the Decretals, beginning with these words.

To the Second Conclusion, That the Accidents do not remain without a Subject after Consecration in the same Sacrament, to hold contrary to the Decree in the Decretals, that begin with these Words, *Concedimus quod est Hæresis*, *We grant is Heretic*.

To the Third Conclusion, That Christ was not in the same Sacrament Identically, Truly, and Really in his Proper Corporal Presence. They Answer, That altho' the Conclusion consists of uncouth and unintelligible Words, yet to go contrary to the Sense of that Decretal in the *Clementines*,
Vol. III.

Clementines, * *Si Dominum*, we grant is *Heresie*. And briefly, as to the whole Matter of the Sacrament of the Altar, and every other, we profess we will, as well in Words as Sense, Agree with the Holy Scripture, the Determinations of the Church, and Opinions of the Holy Doctors.

* This was a Decree beginning with these two words.

The Fourth and Fifth Conclusions they plainly granted to be *Heresies*. To the Sixth, That God ought to obey the Devil, they Answer to this Sense; *That to say God in his proper Person or Essence ought to Obey the Devil with an Obedience of Necessity, We grant it is Heresie*. And thus Evasively and Sophistically they Answered to most of the Conclusions or Opinions, being both Heretical, and Erroneous.

Their Answers not pleasing the Archbishop and his Assessors, they desired others more Express; but then they said they knew not how better to Answer to the Three first, because they had Answer'd in Writing, and would Answer no otherwise.

And to the Sixth Conclusion, because they had not Answer'd fully, and expressly, they were asked, Whether God owed any mode or manner of Obedience to the Devil? they Answered Yea, *to wit*, the Obedience of Charity, because he still loved him, yet punished him as he ought; and to prove that God ought thus to Obey the Devil, they offer'd themselves against any Man, under pain of being burnt.

After these First and Second Answers, the Archbishop asked all the Doctors what they thought of them? Who said one by one, that the Answers to the First, Second, Third, and Sixth Conclusions were Insufficient, Heretical, and Deceitful, and to the others Erroneous, and Perverse.

Whereupon the Archbishop again Admonished them to Answer fully, plainly and expressly, without any Subtle, Sophistical, or Logical Terms or Meanings, and gave them eight Days time longer for it, but they refused to do it.

There is nothing more of them in this Place, only that *Ayshton* answered more Impertinently, and nothing to the purpose, as if he understood not what was demanded of, or said to him; which seems rather a piece of Cunning, than Simplicity.

The first we hear of them further, is, from the King's Writ, Dated July 13. in the Sixth Year of His Reign, which was the July next following; in which, as in several others about this Matter, the King takes upon Him the Title of *Defender of the Faith*, long before the Pope's pretended Gift of that Title to *Henry the Eighth*. 'This Writ was directed to the Chancellor and Proctors of the University of Oxford, to enquire after all such of whatever Profession or Degree, or others within the Limits and Jurisdiction of the said University, that favoured or believed any *Heresies* or Errors, and especially such as had been Condemned by William Archbishop of Canterbury, and his Assessors; or that Believed, Held or Defended any of those *Heresies*, Errors, or the like, or that received *John Wycklif*, *Nicholas Herford*, *Philip Raypydon*, or *John Ayshton*, or any one noted of the same *Heresies* or Errors into their Houses, or Conversed with them, or defended and shew'd them Favour; and if they found any such, to Banish and Expell them the University and Town of Oxford, within Seven Days after they knew any of them, till they shewed, before the Archbishop of Canterbury for the time being, by manifest Purgation.

Rot. Pat.
6 Rich. 2.
Part 1. N. 32.
Printed in
Dr. Braddy's
Append.
N. 119.

'tion, or denial of their Opinions, their Innocency; and they were
'further to search the Colleges and Halls for Books Compos'd by *John*
'*Wyckliff*, and *Nicholas Hereford*, and to do all this upon the Faith
'and Liegance in which they were bound to the King, and under For-
'feiture of the Liberties and Privileges of the *University*, and what
'else they might or could Forfeit; with Command to the Sheriff of
'the County, and Mayor of *Oxford*, and all other Sheriffs, Mayors,
'Bayliffs, Officers, and other His Subjects, to Obey and Assist them in
'the Execution of the Premises. Dated at *Westminster*, *Tertio Decimo*
'*Julii*. *Per Consilium*.

lib. 1. f. 191.
Col. 2.

Mr. *Wood* in his History and Antiquities of *Oxford*, tells us, that
John Ayshton made his *Recantation* and *Confession* before the Archbishop of
Canterbury on the 19th of *July* following, in *Latin* and *English*; where-
upon by his Letters, he was restored to his *University*. Exercises, and
Reading in the Schools, which he Performed without the least touch
of *Herefie*.

col. 2655,
2656.

Henry de Knyghton reports the *Renuntiatiōs* and *Confessions* of *Ni-*
cholas Hereford, and others, and of *John Ayshton*, in the *English* of
those Times, in these Words.

In the Name of God, Amen. Wytes alle Christen Men,
that we Nichol of Herford, and my fellow Priustus, unwor-
thy in presence of our Gostely fader, the Erchebischop of *Can-*
terbury, the nyngtende day of Juny, zeer of Grace a thousand
thre hundred fourscore and two, in the House of the freres
Prechoures at *London*, when we weren required to sayne what
we felyde of divers Conclusions we maken this Procestation,
and zit we maken: That our entent was, and is to be trewe
Sones, and meke, of Holy Chirche and zit happy as God
Schilde, that we erren agaynes this intent in wordus or in
workus, we submytte us mehelyche to the Correction of oure
forsayde fadur the Erche-Bischop of *Canturbery*, and of all
other to whom it longyth to Redress them that erren, and
afterwarde to warn were requirede to say our belebe of the
Sacrament of the Autere as to zoure understondyng, onth
the people, we knowleche first that the *Wyrst* takus in his
honde, thorowe the *Wirtue* of the Sacramental wordus is
made and turnyde veralyche into Christus Body, the same
that was taken, and ben of the Mayden Marye, and that
sufferide deth on the Crosse for *Mankynde*, and that laye in
the Sepulcre, and that ros fro deth to lyve the thirde daye,
and stey up into Hevene, and syttes in jore in the Blisse of
the fadur, and that schal come at the day of dome. to dome
the quikke and the dede, and the Wyne is allso turnyde ve-
ralyche into his Blode, so that leves after the Consecration
of Brede and Wyne, none other substance than that ilk that
is Christus flesh and blode. And furthermore we belebe that
the hole Body of Christ is whole in the Sacrament, and hole in
everyche part pe of the Sacrament of the Autere; and also
we belebe that Christ is veralyche in the same Sacrament
in his Bodely presence, to Savacion to alle hem, that wor-
thelyche receyven to her dampnation; and this is our be-
lebe,

lebe, and in this bene thoru Grace of God, we will dye in Remission of our Synes, and therefore we pry alle Christen Men to whom this Confession schal come to that ze bere us wittness of this belebe at the day of Dome before the heyrest Judge Jhely Chritt, and pray for us for Charitie.

That of *Aylston* is thus Verbatim in the old English Original.

In the Name of God Amen. V John Aylston Priest, unwor-
thely required of my Lord Erchebischop of Canterbury, the
Myntene Day of June, in the Zer of Grace, in the Hous, &c.
to say what I felyde in the matyr of the Sacrament of the
Autere; V have knowlechyde, and zit I do, that the self Bred
that the Priest holdes in his hondes is made thoru the Vertue
of the Sacramental wordus, verely the self Christus Body
that was borne of the Maden Marve, and takun and suffrede
Deth on the Crosse, and thre Days lay in the Sepulchre,
and the thirde Day rose from the Bede to the Lybe, and
steyed up into Heben and syttes on the ryght hand of God,
and in the Day of Dome schal come to Dome the quikke,
and the dede: and ober this I believe Generally, all that
Holy Witte determyneth in worde and in understanding, or
whateber Holy Kirke of God determynes of all this, when
I was required specially to say what I helde of this Pro-
position. For I wote wele, that the matter and speculation
thereof passeth in heyzte in yn understanding, and therefore als
myhele tellys openly for to lebe in this matyr, or of any other
touching the ryght belebe of Holy Kirke, that is nouzt ex-
pounde in holy witte, I believe as our Modur Holy Kirke
belebes, and in this belybe I will dye; and of this thing
I besek all Men and all Wymmen to whom this Confession
come to, to bere me wittness before the highest Judge at
the day of Dome.

16.

As *Wyckliff's* Followers encreased, so their Doctrines multiplied, *Id. Col. 2657;*
and they often Published and Preached different Opinions one from *ad 26. 81.*
another. The same Author notes, he heard above Sixty Preach at
Leycester, very different from, or besides what were first Published
by Doctor *Wyckliff*.

And further, this Author Reports, that the number of the *Lollards* *Id. Col. 2706,*
mightily encreasing, they also taught many new and very strange Opi- *ad 2708.*
nions; Twenty five he notes, whereof several were not taught be-
fore; amongst which, (besides some others) the Sixteenth is that of
our present *Quakers* about Swearing: *viz. It is not Lawful to Swear*
in any manner; and when they Witnessed any thing, these were their
words, I am syk yr it is soth; i. e. I am sure it is Truth; or thus,
without doubt it is so.

All I find further of the *Wyckliffists* or *Lollards* in this Reign, are
chiefly several Writs or Commissions upon the Archbishop's Petition *Rot. Pat. 19.*
granted to him, and his Suffragans and others, to Imprison the Prea- *Rich. II.*
chers and Dispersers of Errors and Heresies; also a Commission to *M. 12.*
Vol. III. certain

certain Persons to search for, and seize Books containing *Hereſie*, &c. and to bring them before the Council, and make *Proclamation*, that none ſhould Buy or Sell them under pain of *Imprifonment*, and to Arrest and imprifon all ſuch as complied not with the *Proclamation*.

There were many in the City of *London*, that about this time frequented *Conventicles* in Private Places, where the Opinions and Concluſions of *Wyckliſſ* and his Followers were Debated and Taught. Wherefore upon notice hereof, the King ſends his Writ to the Mayor and Sheriffs of *London*; to make *Proclamation* from time to time within the City and Liberties of the ſame, 'That no one of what-ever State, Degree, Sex, or Condition they might be, ſhould preſume to make any ſuch *Conventicles*, or Meetings, under pain of Forfeiting whatever they could Forfeit, and Imprifonment of their Bodies during the King's Pleaſure. It is very Remarkable that in all theſe Writs and Commiſſions, King *Richard* took upon Him the Title of *Defender of the Faith*, in theſe Words; *Nos Zelo Fidei Catholicae, cujus ſumus & Volumus eſſe Defensores*, ſerves as an Introduction to his Profeſſion, againſt all *Errors* and *Hereſies*.

I ſhall mention but one Record more of a *Memorandum* of an unusual Oath, taken by ſome of this ſort of Men, when they relinquished what they had Defended and Taught, and returned to the Practices, Opinions and Uſages of the then Church.

Rot. Claus.
19 Ric. 2.
M. 18.

Be it remembred that on the firſt day of *September*, in the Year of the Reign of King *Richard* the *Second*, after the Conqueſt the Nineteenth, *William Dyrett*, *Nicholas Taylour*, *Nicholas Poucher*, and *William Steynour* of *Nottingham*, Perſonally appearing in Chancery, every one by himſelf took an Oath in the Form following.

* i.e. Plyant,
or obedient.

I *William Dyrett*, before *Yhowe* worſhipful *Jadur*, and *Lord Arch-Biſhop* of *Yhork*, and *Yhour Clergie*, with my free will and full abyſede, ſwere to God and to all his *Seyntes*, upon this Holy Goſpelle, that fro this day forward I ſhall worſhip *Ymages* with preyng and offering unto hem in the worſhip of *Seintes*, that they be made after. And alſo I ſhall never more deſpyſe *Pygremage* ne ſtates of Holy *Chyrche* in no Degree. And alſo I ſhall be * *burum* to the *Lawes* of Holy *Chyrche*, and to yhowe as myn *Arch-Biſhop*, and to myn other *Ordinaries* and *Curate*, and keep tho *Laws* upon my Power, and meynteyn hem. And alſo I ſhall never more meynten, ne techen ne defenden, *Errours*, *Concluſions*, ne techynges of the *Lollards*, ne ſwych *Concluſions* and *Techynges*, that *Men* clepeth *Lollardy's Doctryne*, ne I ſhall her *Books*, ne ſwych *Books* ne hem, or only ſuſpect or *Diſſamede* of *Lollardy* reſceyve ne Company with-
all, wittingly or Defend in tho matters: And if I know ony ſwych, I ſhall with all the haſt that I may do yhowe, or elſe yhowe *Offycers* to wyttyn and of her *Boles*. And alſo I ſhall exeyte and ſpyrr all tho to good *Doctryne*, that I have hindered with myne *Doctryne* upp my power. And I ſhall ſtond to your *Declaration* wych es *Hereſie* or *Errour* and do thereafter, and alſo what *Penance* yhe woll for that
Vol. III. I have

I have done, for meynreynning of this false Doctrine I shall fulfill it, and I submit me thereto up my Power. And also I shall make no other Glose of this myn Oth, but os the words stonde. And if it be so, that I come agayn, or do agayn this Oth, or any part thereof, I yheld me here Compable as an Heretick, and to forfeit all my Goods to the King's Will, without any other Process of Law; and thereto I require the Notary to make of all this, which is my Will, an Instrument agayns me.

And moreover, the same *William Dynett*, the same Day granted and acknowledged that all his Goods and Chattels should be Forfeit to Us, *i. e.* the King, in case he any ways contraven'd the said Oath, or did any thing against what was Contain'd in it.

All I can further find concerning the Followers of *Wickliff*, is, that *A. D.* 1394, in the Eighteenth Year of this King, the Clergy being met in two severall Synods, at *St. Paul's*, and *Tork*, those of the Province of *Canterbury* Petition'd their Archbishop, as those of *Tork* did theirs, (who was then the Lord Chancellor) for the speedy and effectual Punishment and Suppression of the *Lollards*, for so the *Wickliffites* began then to be called. And I suppose the reason of their Petition, was, because whilst these Convocations were Sitting, as well as the Parliament at the same time, some Persons in the Name of these pretended *Hereticks*, had the boldness privately to fix certain * *Con-* *Vid. Chroni-
con Manusc.
Thom. Wal-
tingham, in
Bib. Bod.
N. B. F. 9. 1. *clusions* (being Twelve in Number) to the Doors of *St. Paul's Church*; wherein calling themselves *the Poor Men of Christ*, they declared against the Superstitions of the Church of *Rome*; which, together with their Reasons, being somewhat too long, I shall only give you the brief Heads of them.

The First *Conclusion* is against the Appropriations of Churches to Monasteries. The Second, is against the Priesthood, or manner of Ordination in the Church of *Rome*. The Third, against the Celibacy of Priests, as inducing Sodomy. The Fourth, against Transubstantiation of the Bread in the Sacrament into the true Body of Christ. The Fifth, is against the Superstitious Exorcisms and Benedictions used in the Church over Wine, Bread, Water, Oyl, Salt, Wax, &c. The Sixth is against the Temporal Authority exercised by the Pope. The Seventh, against Prayers for the Dead, and Chanteries Founded for that Purpose. The Eighth, against Pilgrimages to, and Oblations and Prayers made at certain Crosses and Images. The Ninth, against Auricular Confession, and Absolution by the Priest, as necessary to Salvation. The Tenth, is against killing Men in War, as contrary to the Gospel. The Eleventh, against Vows of perpetual Continency made by Women. The Twelfth, against a multitude of Arts or Trades in the Kingdom, tending either to Luxury, or the Distruction of Men, such as *Goldsmiths*, and *Armourers*, &c.

But tho' the greatest part of these *Conclusions* are the same which most Protestant Churches hold at this Day; yet it appears by the Tenth and Twelfth of them that the Person who drew them up, held therein much the same Principles with our Modern *Quakers*. However, these and the foregoing Doctrines daily spreading, the Clergy at last obtain'd an Act of Parliament in the next Reign; whereby all Persons Convicted of *Hereſe* before their Ordinaries or Bishops, should be deliver'd over to the Secular Powers to be Burnt; as I shall shew hereafter; if God grant me Life and Health, to perfect another Volume.

FINIS.

And perhaps it may be asked me by some, that desire to have no more knowledge in things of this nature, than what they think is absolutely necessary for them not to appear grossly Ignorant, to what end or purpose I have given my self the trouble of Collecting or Writing any thing on this Subject? Since the Commons being a necessary constituent part of Parliament, is so well settled by a long and uninterrupted Usage of above four hundred Years, that there can be no possibility of calling that Matter into Question, or ever-laying them aside hereafter; especially now, when the Ballance of Property in Lands, and consequently of Power, is lodged in the hands of the Gentlemen and Freeholders of the Kingdom.

I shall not deny what is here objected to be true, as to Matter of Fact ; however, I must still think that a Treatise of this nature is not unuseful, nor unnecessary, even at this time, since there has been, and is yet among us a sort of Men of Arbitrary and Modern Principles, who maintain, that not only the House of Commons, but even the whole Great Council of the Kingdom, or Parliamont, owes its very Being and Essence to the Grace and Favour of our Princes ; and they may retrench the Power and Privileges of this Assembly ;

may, omit to call it, when ever they in their Wisdom shall so please; for they say the Legislative Authority of the Nation is vested solely in the King, against whose Prerogative, as no Time can prescribe, so no inferior Power can limit or controul; and as for such Restrictions which some Kings have been pleased to lay upon themselves, by Laws or Statutes of their own making, or sufferance, those can no longer oblige them, than they shall think them to consist with the Weal and Safety of their Persons and Government; of all which they are the only Judges, as being the sole supream Power of the Kingdom. So that whenever any future King shall conceive that the appearance and acting of the Representatives of the People of England in Parliament (whether Lords or Commons) is too great for their Prerogative, and inconsistent with their resolved Monarchy; they may warrantably, by this their uncontrollable Authority (as these Gentlemen assert) either retrench their Power and Privileges, as I said before; or else omitting to call them, may take the Government wholly into their own hands; so that the consequence must be, that then they may make what Laws, and raise what Money they please without the People's consent.

Nor can I see what other Design those Gentlemen that have wrote so highly against the Antiquity of Parliaments, and especially of the House of Commons, could thereby have, but to give a just pretence to some Arbitrary Prince of putting all these Principles that have been laid down, into practice; and thereby to reduce our mixed and limited Monarchy into the like absolute and despotick Tyranny that is now exercised in France.

Therefore to obviate and take off all such Pretences and fallacious Arguments, the chief business of my Introduction to the first Volume of the History of England, was, as you may see, to shew that the antient Government of this Nation was not an absolute, but a limited Monarchy, from its very Institution; and that our English Saxon Kings were elected by the Wittena Gemot or Parliament; and therefore that Great Council must consequently have been before, or at least as antient, as Kings themselves; and as for the constituent Parts of that Assembly, it is granted on all hands, that the Bishops, Earls, Thanes, (or Barons, as they were called after the coming in of the Normans) were always necessary Members thereof; and I hope I have also clear'd in the abovementioned Introduction, that the Commons distinct from the Higher Nobility, made a part of that great Representative of the Nation: But this has been denied by Sir Henry Spelman in his Glossary, and by Mr. Prynne and Dr. Brady, in several Tracts that they have written to prove the summoning of the Commons to

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Parliament, to be no antienter than the 49th Year of Henry the Third; as the Doctor has endeavour'd to make out in his *Answers to Mr. Petyt and Mr. Atwood*, and also in his later *History of Boroughs*, by many seeming Arguments and Authorities drawn from our Records and Histories, that they were not again summoned till the 18th and 23d Years of the Reign of Edward I.

But since I do not think those Reasons true nor convincing; therefore, for the satisfaction of those that are curious to know the Antient Form of our Government, I have here briesly set down what I could find made use of by any Authors, to prove, that the Commons, as well as the Bishops and Temporal Lords, were a constituent part of our Great Councils or Parliaments, not only before, but also after the pretended Conquest by King William I. and therefore that the Commons can be no more omitted or left out of a full or compleat Parliament, than either of the other Estates; which I think may be very necessary to stop the Mouths and Pens of those Men, who, upon these Principles, shall make any fresh Attempts to set up an Arbitrary and Despotick Power over this Free Nation: and I hope it may likewise be Instructive to those Noblemen, Gentlemen, or Others, whose Interest it is to know the utmost that can be alledged on both sides in this great and important Controversy, which, I must grant, is somewhat intricate and obscure, by reason of the silence of several of our Historians, and the loss of the antient Writs of Summons to Parliament, besides the Parliamentary Records themselves, till the beginning of the Reign of Edward the Third: And I confess it is rendred yet more dark and perplexed, thro' the Prejudices and Artifices of some Writers of the contrary Opinion, who have used all their Skill and Cunning, not only to conceal, but to wrest and pervert all Authorities that have been brought against their Notions, to a quite contrary sense than ever they were intended; and for the truth of this I shall refer the Reader to the following Replies.

I confess I have gone somewhat farther than at first I designed in this Discourse, which was principally for an Inquiry only into the Arguments brought by Mr. Prynne and Dr. Brady, concerning the Antiquity of the Commons, their being summoned to Parliament: Because I have, since that, perused the Learned Dr. Wake's elaborate Work, entitled, *The State of the Church and Clergy of England*, in their Councils and Convocations, and there met with some Passages, wherein he, unhappily falling into Dr. Brady's false Notions, endeavours to make out, that the Commons, as well as the inferior Clergy, were not constantly summoned to Parliament, until the 23d Year of Edward the First (tho' indeed he grants, that the

Knights of Shires were once called up in the 18th Year of that King) and further takes upon him to Answer the Authorities that are found in some of our Historians to the contrary: which Answers, since they are not sufficient to convince me, I presumed he would not be displeased at my offering some short Animadversions upon them, which I have taken care to do with that Deference and just Respect as is due to that Reverend Author's great Learning and Character; and to whom I must own my self very much beholden for that true light I have had into that before dark and obscure Piece of Church-History, concerning the difference between Synods, Councils, and Parliamentary Conventions, or Convocations; which he hath handled with that truth, perspicuity, and exactness, that not only those of his own Profession, but all others who are lovers of Antiquity, and desirous to have a through knowledge of this important Subject, ought to own themselves highly obliged to his excellent Performance.

Before I conclude this Preface, I must also take notice of another thing that I foresee may be further objected by those of Dr. Brady's Opinion, against this Performance; which is, that I do not deal fairly in writing against that Industrious Author now deceas'd, who (they say) had he lived, would have given it a sufficient reply. But to this I shall beg leave to answer, that altho' the Doctor died before the coming out of these Sheets, yet I had finished the greatest part of them in his Life-time, and had then taken care to pay him those Regards that were due to his Learning, even for his, as well as my own Reputation; and now have treated his Memory with all becoming Observance, as one that is resolved to avoid personal Reflections, as unworthy at any time to be used by Men of an Ingenuous Education: my Exceptions being against his Opinions, and not against his Person, of which I had but little knowledge; yet whether he would have made any Reply or no to this Discourse, I must still doubt, because most of the Arguments and Authorities here made use of, were published long ago, on which he never thought fit to make any Animadversions. However, since my Design in writing this Discourse is purely to discover Truth, and not to maintain any Faction or Party, I should be very glad if those Gentlemen, to whom the Doctor has bequeathed his Notes and Manuscripts, would be pleased, from them, to make what Replies they can to the Arguments and Authorities here produced; for thereby they may not only give us clearer light into this important Controversy, but also may vindicate the Doctor's Reputation, in shewing us, that he wrote nothing, but what he found he had sufficient Reason and Proofs for, to justify himself: Nor can his Friends (as I conceive) run any hazard in

so doing, because whatsoever they publish in this kind, will no ways affect this present Establishment, which is acknowledged on all hands to be sufficiently settled by such a continued Succession of Years ; so that it now seems rather a Question relating to Antiquity, than to the present Constitution of the Government, which, I hope, no body will go about to alier, after so long an experience of its excellence and fitness for the Genius of this Nation.

But to come to the last Head I design'd to speak of, viz. the usefulness of a thorough understanding of this Subject, especially for all those that are or shall be imployed as Parliament-men, or be put into other Civil Offices of the Government ; and here I shall only say, that unless they are sufficiently instructed in what is our Original Constitution, and the antient Rights and Privileges thereof, they can never be able to defend it as they ought, against those that shall make it their business to cry down this excellent frame of Government, as if it were inconsistent with Monarchy: Nor indeed can the Persons above-mentioned have that real value and esteem for an Institution, which (as some affirm) proceeded but a few Centuries ago, from the pure Bounty and free-will of our Kings, as they must have for the same Constitution, if proved to be as antient as Kingly Government it self.



The Appendix.

A Brief and Impartial Disquisition into that Great Question, Whether the Commons of England had ever any other Representatives in Parliament, than the Tenants in Capite, before the 49th of Henry the Third? wherein all the Arguments that have been published in several Treatises on this Subject, are fairly represented; together with such Answers and Replies as can be given to them.

IN the ensuing Discourse I shall pursue this Method; first, Set down the Arguments and Authorities that either have been, or may be made use of from our *Historians*, since the *pretended Conquest*; as also from the *Great Charter* granted in the second and ninth Years of *Henry the Third*; and likewise from *Prescription* out of the Antient Register of Writs, to prove, that the Commons of *England* appeared in Parliament by their Representatives chosen by themselves long before the 49th of *Henry the Third*.

In the second place I shall prove, that the *Commons* were represented by Knights, Citizens, and Burgeffes, from the 49th of that King, to the 18th of *Edward the First*, against Dr. *Brady's* confident Assertion to the contrary.

Thirdly, That the People or *Commons of England* have always claim'd this Right by *Prescription*, *i. e.* Time beyond Memory, of being so Represented; and that this Claim hath been allowed by the King and his Council; as also by all the Bishops and Peers of this Realm in Parliament.

Fourthly, I shall give you the Testimonies of divers Learned Antiquaries, all of this Opinion, that it was the Antient Right of the *Commons of England* by *Prescription*, both before and since the *Norman Entrance*.

In the second Part I shall faithfully set down the Arguments produced by Sir *Henry Spelman*, in the second Volume of his Glossary; by Mr. *Prynne*, in his Plea for the Lords; and by Dr. *Brady*, in his Introduction to the History of *England*; and shall also add thereunto, as briefly as I can, such Answers as may be given to those Arguments and Authorities, either from Printed or Manuscript *Historians*; and especially from that which they most insist upon, *viz.* the *Great Charter* of King *John*.

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There are likewise divers other Authorities and Arguments drawn from History and Records, which Dr. Brady hath made use of, to prove, that the Commons, as now understood, were not summon'd to Parliament, from the 49th of *Henry the Third*, to the 18th of *Edward the First*; which being his own particular Opinion, and he the first broacher of it, I have answered it by it self.

Vid. *Short*
Introduc. to
his Answer to
Mr. Petyt,
ad Proposition.

† P. 74.

And now having laid down the Method I intend to take in the following Discourse, I shall, in the next place, proceed to the Arguments and Authorities themselves, whereby it may be prov'd, that the *Commons* of *England* had Representatives in Parliament before the 49th of *Henry the Third*. And here I desire the Reader to take notice, that the Question between the Doctor and Me, is not, Whether the *Commons* were not some way or other represented in Parliament? for he himself grants, that they were represented by the *Tenants in Capite*, tho' just before he says, that before that time the Body of the *Commons* of *England*, or Freemen (as now understood) collectively taken, had not any share or Votes in making of Laws for the Government of the Kingdom, &c. which certainly supposes, that they were represented one way or other: But in his Answer to Mr. Petyt he departs from this Concession, and says, That the *Fideles* mention'd in a Record of King *John* (who had usually been call'd to Great Councils) were *Tenants in Capite*, but not *Barons*, and only represented themselves, and not the *Commons*; yet a few Pages further he affirms, † that other *Tenants* that held of the *Tenants in Capite* by Knight's Service, were bound by their Acts, in a Great Council or Parliament; but how they could be so obliged, unless they were some way or other represented, I can by no means understand. But Sir *Henry Spelman*, in his Glossary, *Tit. Parliamentum* grants, what the Dr. denies, in these words, *Et consentire Inferior quisque visus est in Persona Domini sui Capitalis, prout hodie, per Procuratores Comitatus vel Burgi, quos in Parliamentis* Knights and Burgeses, *appellamus*, i. e. Every inferior Tenant seem'd to consent, (*viz.* in a great Council) in the Person of his Capital Lord, as they do at this Day, by the Representatives of Counties or Burroughs, which we call *Knights* and *Burgeses* in Parliament: But let the Doctor contradict himself as he pleases, he hath granted enough for our purpose, that his *Tenants in Capite* were not *Barons*; and if so, some of them must be meer *Commoners*; and surely then, there were *Commons* in Great Councils or Parliaments, before the 49th of *Henry the Third*.

* In *Bid.*
Cotton.

I shall now proceed to the Authorities themselves, for the proving of the first Proposition; and here I desire the Reader would call to Mind, that in my *Introduction* to the first Volume I made it plain, by divers express Testimonies, that the *Commons* had their Representatives in Parliament under the *English Saxon Kings*; and that they did not lose it by the Doctor's pretended Conquest of *William the First*. I have there also prov'd, by * *Sulcardus's* Manuscript Chartulary of the antient Monuments and Charters belonging to the Abby of *Westminster*, in A. D. 1071, being the fourth Year of that King's Reign, that the antient Privileges and Liberties of that Church were confirm'd by a General Synod or Common Council of the Realm, the Conclusion to the Charter then seal'd by the King

King, expressly telling us, that there then appear'd thereat *many illustrious Persons and chief Men of the Kingdom, whose Names, tho' omitted, yet were Consenters and Witnesses to this Confirmation of the Privileges and Liberties of that antient Monastery; and these were summon'd by the Royal Authority from divers Counties and Cities, to this General Synod held at the Abbey abovementioned; of which I shall say no more, but refer the Reader to the Latin Original at the latter-end of the Introduction to my first Volume; where he will also find an Answer to Dr. Brady's Objections, who will not allow the Persons there mention'd to have been Representatives of Counties or Cities, but only Spiritual Persons sent up from the several Diocessēs and Cities of England, to represent the Inferior Clergy in a Synod that was then held. But I shall say no more concerning it in this place, having, I hope, already sufficiently answer'd that Cavil.*

In the 19th Year of this King, A. D. 1086, as * *Florence of Worcester* relates, he commanded, *That the Bishops, Abbots, Earls, Barons, and Sheriffs, with their Knights, should all meet Him on the first of the Kalends of August at Salisbury, where, when they came, He made them and their Knights to swear Fealty to Him against all Men.* This was undoubtedly a Great Council, to which not only the Great Men above-mentioned, and the Sheriffs were summon'd, but Knights or Tenants by *Military Service*, who were certainly *meer Commoners*, so that this Council did not consist of Tenants *in Capite* alone.

After this, I confess, we do not meet with any express mention of *Commons* to have been present in any Great Council or Parliament in those Times, which might however be included under the general words of *Principes & Nobiles Regni*, as they are often mention'd in *Eadmerus* and other Authors: But when his Brother *Henry I.* was elected King, by a Great Council of the whole Kingdom, He granted his Charter of Liberties to the Clergy, Nobility, and People of *England*; to which in the Copy of the *Red Book* in the *Exchequer*, as also in † *Brompton's Chronicle*, these are set down as present and Witnesses at his Coronation, *Testibus Archiepiscopis, Episcopis, Comitibus, Baronibus, & Vicecomitibus, & Optimatibus totius Regni, quando Coronatus fuit*; where, besides the Earls and Barons, the Sheriffs of *England*, and the chief Men were present; and by these *Optimates*, I suppose, the inferior Military Tenants are understood; since the word *Barones* then took in all the Tenants *in Capite*, both great and small, as Mr. *Selden* hath prov'd in his *Titles of Honour*, p. 649; and as Dr. *Brady* himself confesses, in his Answer to Mr. *Petyt*, p. 102. *Gloss.* p. 28, 29.

And this too further appears from * *Florence of Worcester*, and *Eadmerus*, in their Relations concerning that great Council held by this King, A. D. 1116, at *Salisbury*, for the declaring of his Son *William* his Heir, and to make all the People of *England* of any Note, to swear Allegiance to him; and tho' both these Authors differ in their Expressions, yet they agree in the Thing: The former of them calls it, *Conventio Optimatum & Baronum totius Angliæ*; and the latter stiles it, *Abbatum, & Principum totius Regni, apud Seruberiam Cogenti eos illic Sanctione Regis*: From which two Historians I shall only observe, that not only the Bishops, Lords, and Tenants *in Capite*, are, by them, comprehended under the Titles of

* Ad hunc An.

Vid. Q. Eadmerus.

P. 16.

† Col. 1022.

* Ad hunc An.

Optimum & Barorum & Principum, but their inferior Tenants likewise, who were *meer Commoners*; and the Knights of Shires, whenever they were summon'd, might as well be comprehended under the same general Terms; so that if we had not other Authors to make it out, it would seem as if no more than the Bishops and Great Lords of the Kingdom had been summon'd to this Council: But *William* of Malmesbury (an Author who lived at that very time) is more particular, for under this Year (being the 16th of this King's Reign) he tells us, that at this Council at *Salisbury*, not only the Bishops, Lords, and Tenants in Capite, but also all the Freemen of England, of whatsoever Order, Dignity, or Condition, or of whatsoever Lord they held, were oblig'd to swear Fealty to Prince *William*, the King's Son, being then scarce twelve Years of Age. The original Latin runs thus: *Willielmo Filio suo, cum, viz. 12 Annorum esset, omnes Libri Homines &c. cujuscunque ordinis & Dignitatis; cujuscunque Domino Fideles manibus & Sacramento se dedere coacti sunt.*

And that this was a General Council of the whole Kingdom, appears by the Testimony of * *Polidore Virgil*, who calls it a 'Common Council of the Kingdom, wherein the Controversy between the Archbishops of *Canterbury* and *York* was debated; and the latter refusing to yield to the former, it very much incensed King *Henry*. And in this Council, the same Author affirms, that all the chief Men of the Kingdom swore Fealty to the King's Son, in a set form of words: For (says he) till this time the *English* Kings were very seldom used to consult their People in a Council; so that this Institution may be most properly ascribed to this King, because that for the future they constantly resolved to do nothing for the well-government and conservation of the Commonwealth, without first consulting this Council. But tho' this Author is certainly mistaken in making our Great Councils or Parliaments no antienter than this King's Reign; yet he is so far in the right, that this Assembly at *Salisbury* was a General Council of the whole Kingdom.

But since the Gentlemen of Dr. *Brady's* Opinion will not grant, (tho' they cannot deny the truth of the Matter of Fact, that there were such Assemblies in the Reigns of *William* and *Henry the First*, as the two last mention'd) that they were Common-Councils of the Kingdom, properly so called, but were only *Occasional* Conventions or Assemblies, summon'd by the King for a particular end and purpose, viz. the former to do Homage and swear Allegiance to King *William* Himself; the latter to do the like to the young Prince, Son to King *Henry*, which was, however, not to take effect till after the Death of his Father; and further, that the subordinate or *Fendatory* Tenants, who, together with the Bishops, Abbots, Earls, Barons, and other Tenants in Capite, were present at these Assemblies, were not there to do any Parliamentary Business, as to give Money or Advice, and Consent in enacting of Laws, but only to make all sorts of Men, who held by *Military* Tenure, to recognize and swear to maintain their Titles; and tho' that in this Assembly or Council at *Salisbury* there might be other Business dispatched (as the Historians relate) yet this was only *Occasional* and by the bye; and that none, except the Bishops, Earls, and greater Barons, had any thing to do in that Judgment and Determination, concerning the business of the

two Archbishops; as the Commons have not any thing to do at this Day in Matters of Judicature.

This Objection, tho' it seems somewhat weighty, I think, may admit of the following Answer: In the first place, I must here insist upon the Proofs I have already brought in the *Introduction* to my first Volume, that the inferior Tenants or *Thanes*, below the degree of the Earls and chief *Thanes*, were constituent Members of the *English-Saxon* Great Councils, and that they continued to be so after the pretended Conquest, I have already fully made to appear in the beginning of this Discourse, which also may be further clear'd up by the Charter of *William the First*, by which it is Ordained, Commanded, and Granted by Him, that all Freemen of the whole Monarchy of his Kingdom may have and hold their Lands and Possessions well and in Peace, free from all unjust Exactions and Tallage, so as nothing be exacted or taken unless their Free Services, which of right they ought and are bound to perform, and as it was appointed to them, and given and granted to them by Him, as a perpetual Right of Inheritance by the Common Council of the whole Kingdom: From whence we may collect, that these Freemen mention'd in this Law, were not to be taxed without their own consent, or that of their Representatives in that Council; and therefore it will follow, that the Great Councils of those times did consist (or at least ought to have consisted) of divers other Persons besides the Prelates, Lords, and Tenants *in Capite*, since the Freemen of *England* could not All be represented by them; and therefore these Assemblies holden by King *William* and *Henry the First* were not extraordinary Conventions, but were Great or Common Councils of the Kingdom, properly so call'd, seeing otherwise it had been much easier for those Kings to have issued out an Edict, that all the Subjects of *England*, of any Note or Condition, should have taken the Oath of Allegiance to themselves, or their next Heir, before certain Commissioners in their several Counties, rather than to have put the whole Kingdom to the trouble and expence of meeting and performing it in Person at one particular place.

See this Charter inter Leges Willielmi R. at the end of Lambert's Saxon Laws. As also in the Appendix to the General History, Vol. II.

Vide J. 2.

But since Dr. B. in his Answer to Mr. P. will by no means allow this Law of *William I.* to be understood in that sense, as if all the Freemen of *England*, of whatsoever Tenure, had any hand in making Laws or granting Taxes in those Times, I shall give you the Sum of his Arguments against it. First, he says, that there were no *Englishmen* at that time in the Common Council of the Kingdom, their Lands being already given away to the Conqueror's Soldiers and Followers. And in the next place he affirms, that the Freemen mention'd in this Charter, were not ordinary Freemen, by whatsoever Tenure, but only Tenants *in Capite*, or other Military Tenants under them; and whom they represented, by giving Taxes and making Laws for them, whenever the King pleas'd to summon the Tenants *in Capite* to his Great Council or Parliament. And Thirdly, That these *Liberi Homines*, or Freemen, were only such Military Tenants, he endeavours to prove, from the 58th Law of this King, which he thus translates; We Ordain also, and firmly Command, that all Earls, Barons, Knights, and their Servants, or Escuyers, and all Freemen of our whole Kingdom be always fitted with Horse and

B. Answ. P. p. 17, 18.

Arms, as they ought to be, and always ready to perform their whole Service to Us, when there shall be need, which they ought to do, according to, and by reason of their Fees and Tenures, as We ordain'd by the Common Council of the whole Kingdom: And then he makes this Comment upon it. Here all the Freemen of his Kingdom were to perform their Military Services with Horse and Arms, according to their Fees and Tenures; therefore they were Tenants in Military Service (which in those Times were the only Freemen, and that Service the only Free-Service) which were meant in this Law; and how different they were from our ordinary Freeholders at this Day, (for whom neither of these Laws were made) I leave to the Judgment of every Ingenuous Reader.

I shall now reply to what the Doctor hath here too rashly asserted; First, he is mistaken in so positively affirming, that these Laws no ways concern'd the *English*, when they were first made, since, for ought he knew, they were enacted; (for there is no date to them) within the first four Years of King *William's* Reign; and then the Doctor himself acknowledges, in his Answer to Mr. *Cook's Argumentum ante Normanicum*, as also in his History, that the old *English* Proprietors were not at that time turn'd out of their Estates; and that the major part of them were not so at all, I think I have sufficiently made out in the *Introduction* to my last Volume of the General History of *England*: But this is only by the bye; the main Question is, Who these Freemen were that are mention'd in both these Laws? that they were not only Tenants *in Capite*, or Military Tenants, appears by the very words here produced by the Doctor, where the *Universi Liberi homines*, or all the Freemen put after all the other Orders of Men (which comprehend all Tenants *in Capite*, and by Military Service, by the words *Barones, Milites & Servientes*, i. e. those that serv'd under them) must be of a more extensive signification, or else they need not have been put there at all; and that the Tenants of whatsoever Tenure, provided they were not Villains, were reckon'd amongst the Freemen of the Kingdom, appears by this place in *Fleta*, where speaking of the King's Tenants in *Antient Demesne*, he says, 'That in Mannors of this kind, belonging to the King, there were Freemen or Freeholders, who being cast out of their Estates by some more powerful Lords, were forced to receive them again in *Villainage*; and because such kind of Tenants are known to be Tillers of the King's Lands, therefore it is provided, that they should be acquitted from performing any Suits to the County or Hundred Courts, whose Assembly or Meeting they called *Soka*; and hence it is they are stil'd *Sockmen*; and that such *Sockmen* were also accounted Freemen, See *Spelman's Gloss. Tit. Sockman*, where he says thus, *Socmanus in Natura Brevium (sub Brevis de Recto) propriè talis est, qui liber est, & tenet de Rege, seu de alio Domino in Antiquo Dominico terras suas seu Tenementa in Villenagio. In Libro Sancti Albani Tit. Houghton, Ch. I. a Rege Angliæ Manerium de Houghton tenuerunt in Dominico; Omnes Tenentes Liberi, scil. & custumarii qui per Sockam defendebant tenementa sua, &c. ex quo patet Sockman Liberos homines significare, i. e.*

* A Law Book so called. A *Sockman* in the old *Natura Brevium*, under Title Writ of Right, is properly such a One that is a Freeman, and holds of the King, or

of

of any other Lord Lands or Tenements in antient Demefne by Villainage. So in the Book of St. Alban's, Tit. Houfton Cap. 1. All the Free and Customary Tenants held the Mannor of Houfton of the King in Demefne, and acquitted their Tenements by the Service of the Plough: From whence it appears, that thefe Sockmen were Freemen; and if thefe Socage Tenants in antient Demefne were Freemen, no doubt but all other Socage Tenants were fo too. And that not only Tenants by Military Service, but all Others of whatfoever Tenure were reckon'd among the Freemen of the Kingdom, who were bound to provide themfelves with Horfe and Arms, appears from that Statute or Affize of Arms made by King Henry the Second, whereby every Lay-Freeman, who had fixteen Marks Rent, was to have a Coat of Mail, a Helmet, and a Sword; and every fuch Freeman of ten Marks, the other Arms therein mention'd.

But fince the * Doctor affirms, that foon after or near the Con-
 queft there were very few or no great Socagers, that is, fuch as held Eftates in Socage; I muft beg his Pardon if I am of a different Opinion; and therefore fhall be very glad to be fatisfied by any of his Friends, (fince he himfelf is dead) by what other Tenure thefe following Freeholders held their Lands. *First*, All fuch as held of the King, or of any Abbot, Bifhop or Great Lord, Lands in *Alodio*, that is, difcharged of all Services except the bare Tenure only. *Secondly*, Such as held of the King by petty Sergeanty, as yielding Him an Arrow, a pair of Spurs, or the like, or by being his Huntfmen or Faulknors; of which there are not a few mention'd in *Domesday-Book*. *Thirdly*, Such as held of fome Honour or Castle of the King's in Fee Farm, that is, paying a certain Annual Rent. *Fourthly*, Such as held Lands of the King, or of the Archbishop of Canterbury, Bifhop of Rochefter, and other Lords in *Gavel-kind*, of which Tenure were antiently all the Lands in *Kent*, as alfo a great deal in *Worcefterfhire*, *Herefordfhire*, and the *Marches of Wales*; as the Ingenuous Mr. *Sylas Taylor* hath very well prov'd in his Difcourfe of *Gavel-kind*. *Fifthly*, All Tenants of fuch Abbots, Priors, Deans, and Chapters of Cathedral Churches, as held in *Frank-Almoigne*, and not by Knights Service in chief, and their Tenants in free Socage, paying Rents and Fines; or elfe fuch Services as thofe Ecclefiaftical Bodies, would let them out at, either in Fee, or elfe for Lives. And, *Laftly*, Such Cities and ancient Boroughs of the Kingdom, as *London*, *York*, &c. which being places of Trade, and Riches held of the King, or elfe of fome Bifhop, Abbot, or Great Lord, either in Socage or Burgage-Tenure; nor could they be legally Taxed *de Alto & Baffo*, at the Will of the King or other Lord, as the Doctor in divers places afferts. All thefe, if well confider'd, will be found to have enjoy'd at leaft a fourth, if not a third part of the Lands of the whole Nation; and not holding their Eftates by Knight's Service, they could never be taxed in Parliament by the Tenants *in Capite*, who were not their Landlords, and therefore could no ways represent them, according to Sir H. *Spelman's* and Dr. *Brady's* Hypothefis, that the Tenants *in Capite* gave Taxes and made Laws for the whole Nation.

This, tho' it may feem a digreffion, yet indeed is not fo, feeing it will ferve to give the Reader a great deal of Light to what
 fol.

follows, and shew him the necessity of supposing some other Representatives, not only for the inferior Tenants *in Capite* themselves, but for all the rest of the People above-mention'd.

I shall now proceed to other Citations out of our antient Histories; I confess the confus'd Reign of King Stephen doth not afford us many direct Authorities, yet *Florence of Worcester*, under *A. D. 1138*. tells us, that this King held a Council at *Northampton*, in which *Thurstin*, Archbishop of *York* presided, the Bishops, Abbots, Earls, Barons, and all the Nobles of the Kingdom being present, under which last words, *Nobiles quique* put after *Barones* in the *Latin*, may be very well understood the *Nobiles minores*, or Representatives of the Commons; so likewise the same Author tells us of a Council held the next Year *coram Primoribus Angliæ*, before the chief Men of *England*; under which Term, that more than the Great Barons and Tenants *in Capite* may be included, I have prov'd in another † place; the like I may affirm of some other Councils of his Time, which are * said to be held by the Bishops, Earls, and the rest of the *Optimates*; under which Term I shall shew the best of the Commoners under the degree of Lords may be understood.

† Vid. Introduct. to the 1st Vol.
* Chron. Norman ad A. D. 1152.

I shall now proceed to the most settled Reign of *Henry the Second*, who in his tenth Year *A. D. 1164*, held that famous Council at *Clarendon*, where the two Archbishops of *Canterbury* and *York*, with the Bishops, Abbots, Priors, and chief Men of the Kingdom (in *Latin*) *Proceres Regni* were present, and who all Recognized the Constitutions there propos'd by the King, and that under the word *Proceres*, not only the Tenants *in Capite*, but their Inferior Tenants, being meer Commoners, are comprehended, I shall prove hereafter.

† Pag. 683. The next Council I shall insist upon is, that which was held by this King at *Gaitington*, *A. D. 1188*, which as † *Hoveden* relates, consisted of Bishops, Abbots, Earls, Barons, and many Others, as well Clercs as Laymen; the words in *Latin* are, *Et aliorum multorum tam Clericorum quam Laicorum*; where by the Clercs or Clergymen are to be understood the Inferior Clergy, as Deans and Archdeacons, and by the Laymen the Representatives of the Commons put after the *Barones*; and in this Council was granted a Tenth of all moveable Goods for the Relief of the Holy Land.

And that by these many others must be understood, not the Tenants *in Capite* seems evident, because they were then reckon'd among the Barons, as appears by the Constitutions of the Council of *Clarendon*, cap. xi. printed in *Dr. Brady's Appendix*, p. 43.

As for the Reign of King *Richard the First*, there were not many Common Councils or Parliaments held in it, by reason of his long absence from *England*; but in those few that were summon'd after his return, it is evident, there were Others besides the Bishops and Lords: the Annals of *Margan-Abby* being an antient *Welch-Chronicle* suppos'd to be written about the middle of King *Henry the Third's* Reign, speaking of King *John's* Coronation, *A. D. 1199*, says, He was Crown'd contrary to the Judgment of the Archbishops, Bishops, Earls, Barons, *Et omnium aliorum Magnatum Regni Angliæ*, i. e. and all the other Great Men of the Kingdom of *England*, which was pass'd at *Nottingham* before King *Richard* and his Brother, where he was adjudg'd and disinherited for Treason.

Here

Here by the *Aliorum Magnatum* may very well be understood, at least the Knights of Shires, who are often stiled *Magnates* in our antient Parliamentary Records. So likewise in * *Hoveden* we find † *Page 445.* the Assize or Crown-Laws concerning *Forests* and other things, are said to be made by the King, with the consent of the Archbishops, Bishops, Abbots, Earls, Barons, & *Militum*, i. e. of the Knights, (or Men at least that held by Military Tenue.)

Against which Authorities those of the contrary Opinion do object, that by the words *aliorum Magnatum*, in the first Citation, are to be understood the less Tenants *in Capite*, as different from the greater Barons; and that the word *Militum* in the Title to those Laws coming after *Barones* are meant the same sort of Persons.

To this it may be reply'd, that should these words be admitted in this sense, it would be a needless recital of the same Order or Degree of Men, since Mr. *Selden* in his Titles of Honour has prov'd, that till the *Great Charter* granted by King *John*, all the Tenants *in Capite*, as well Great as Small, were reckon'd alike under the Title of *Barons*, as I shall prove more at large hereafter.

I come now to the Reign of King *John*, who was † elected by a † Chron. Brempton. Coll. 1281. Great Council of the whole Kingdom, consisting of the Archbishops, Bishops, Earls, Barons, and an *infinite number of other Nobles*; and this He himself acknowledges in one of his Charters, that He succeeded to the Crown by *Hereditary Right*, *Mediante tam Cleri quam Populi unanimi consensu & favore*, i. e. by the unanimous Consent and Favour of the Clergy and People contributing thereunto. So likewise in a Charter on the * *Rolls* in the *Tower*, whereby He settles * Rot. Cant. 5 Johan. M. 5. n. 33. printed in the Appendix to the Gen. Hist. of England. n 7 a Jointure on his second Wife Queen *Isabel*, who, in the beginning of it is said to be Crown'd Queen, *by the common Assent of the Archbishops, Bishops, Earls, Barons, and Clergy and People of the Land*, that is, in a Great Council consisting of the several Orders or Estates: To these Authorities I know the Doctor's Friends will say, that by the multitude of *Nobles* mention'd by this Historian, the less sort of *Nobility* or Tenants *in Capite* are to be understood, who then, together with their Military Tenants that follow'd them to such Great Assemblies, made up a very great Number, and yet was far from an *Infinite Multitude*, as this Author calls it by way of an *Hyperbole*. And as for the words *Clerus* and *Populus* in the † *Record* last cited, † Dr. *Brady* hath proved in his *Glossary*, that † Tit. Clerus & Populus they signify no more than the *Clergy* and *Laity* in general, and by the *Populus* in this place is meant no more than *Plebs*, by which the Doctor proves from *Matt. Westminster*, that the Lay-Earls and Barons are to be understood, and not the *Commons*; and as for *Clerus* and *Populus* put after *Barones*, as the word *Clerus* may signify some of the Inferior Clergy, such as Abbots and Priors as held *in Capite*; so likewise by the word *Populus* are meant no others, than the less Lay-Tenants *in Capite*.

To this it may be reply'd, that the words *Infinita multitudo Nobilium*, tho' taken Hyperbolically, yet cannot mean the less Tenants *in Capite* alone; for they went at that time under the Name of *Barons*; and if their immediate Tenants under them are taken into the Account, the consequence will be, that they had as much Right as their Lords to appear at this Great Council held at King *John's*

John's Election, because there lay no obligation upon them by reason of that Solemnity, to put themselves to the trouble and expence of being present at this Coronation if they had no Right to be there.

As for the Words *Clerus* and *Populus* in the Record, what is comprehended under the former of these Terms, I shall not concern my self to decide ; only it is certain it was an Order of Clergymen distinct from the Archbishops and Bishops, and so by the same Reason the Word *Populus* must mean another Order of Laymen from the Earls and Barons, or else this Word would be in vain, and to no purpose in this Record ; but that *Populus* ever signified the less Tenants *in Capite* alone, the * Doctor cannot make out in his *Glossary* ; tho' he allows that under the Word *Vulgus*, (which he grants to be the same with *Populus*) when put in opposition to *Clerus*, the Temporal Earls and Barons with the *Commons* were understood in the † *Ib. pag. 26.* Reign of *Edward I.* So likewise in the † next Page he grants, that in the Thirty fourth of the same King, the Word *Populus* comprehended the *Earls, Barons, with the other Great Men, and the Knights of Shires*, and not the Tenants *in Capite* alone ; and why this Word should not have a like signification in this Record, I can see no reason.

* Rot. Pat. 6.
Johan. M.

In the sixth Year of his Reign, in a * Record cited by Mr. *Selden* in his Titles of Honour, we find certain Laws made by this King, for the Defence of the Kingdom, by the common Assent of the Archbishops, Bishops, Earls, Barons, *Omniumq; Fidelium nostrorum Angliæ*, i. e. of all his Faithful Subjects, by which seems to be meant the Representatives of the Commons ; and the Annals of *Waverly* under the Year 1207, tell us, that there was a great Council held this Year at *London*, about the beginning of *January*, at which were present, the Bishops, Abbots, Priors, Earls and Barons, & *Magnates Regni*, i. e. the Great Men of the Kingdom ; wherein he required the Bishops and Abbots to permit the Beneficed Clergy to give him a certain part of their yearly Income. Now that by the *Magnates Regni*, or Great Men of the Kingdom, here put after *Barones*, the Knights of Shires may very well be understood, I shall

† Inter Com-
munia Brevia
Deter. estrin.
An. 34 Ed. I.
* Penes Duum
Petyt.
Vid. Rastal
Stat.

make out from divers Precedents : First, among the † Records of the Exchequer, in the Reign of *Edward I.* the *Knights of Shires*, and *Barons of the Cinque Ports* are called *Magnates* ; and in an old Printed * Book of Statutes in *Latin* and *French*, as also in *Rastal's* Statutes, 15 Ed. III. Cap. 4. there are mention'd, the Prelates, Earls, Barons, Knights, and other *Grandz*, i. e. Great Men of every County : And so likewise the Statute *de Servientibus*, in the 25th of Ed. III. was made by the assent of the said Prelates, Earls, Barons, and other Great Men of the said *Commualty* there assembled ; ther yet, in the Statute 27 Ed. III. the Ordinances of the Staple are said to be made, after good deliberation had with the Prelates, Dukes, Earls, Barons, and Great Men of the Counties, of each County one, and as many for the Commons and Cities and Boroughs of the Realm.

And in the Parliament of the Eighth and Ninth of King *John*, the † *Universitas Comitum, Baronum, Militum, & aliorum fidelium*, complain'd against the Clergy about *Romescot*, i. e. making extravagant Pay-

† Rot. Pat. 8.
9 Joh. n. 1.

Payments to the *Roman Court*, which seems most likely to be done in Parliament, tho' the Proceedings are now lost. I know those of the contrary Opinion will strive to evade the Force of this last Authority, in saying that by *Omnes Fideles*, here mentioned after *Barones*, we should understand the less Tenants *in Capite*; but to this I answer, that this is only *gratis dictum*, and we may as well deny, as they affirm it; for the tho' word *Fideles* is sometimes taken for the King's Tenants or Vassals, yet it also extends to those of others, besides the King's: Thus in the above-mentioned Authority from *Malmesbury*, concerning the Great Council at *Salisbury* it is said, that *cujuscunque Domini Fideles*, the Tenants of whatsoever Lords were made to swear Fealty to the King's Son: but that the word *Fideles*, even in this King's Reign, must have been of a like comprehensive signification, and mean all the Feudatary Tenants in *England*, appears by this King's * Writ of the 15th of his Reign, directed thus, * *Rot. Per. 154*
Rex Baronibus, Militibus & Omnibus Fidelibus totius Angliæ, salutem: Johan. p. 1.
 By which last Expression Dr. Brady would have understood only *m. 2.*
 the King's Tenants *in Capite*, which is very improbable; for if they are all comprehended under *Milites*, as the Dr. in other places avers, then these *Fideles* in this Record will signify the same thing; but these short Writs did not use to abound in vain and unnecessary words.

I shall now pass to the 15th Year of this King, where we find in *Matt. Paris*, that all the *Nobles* and *Freemen* of *England* being assembled at *Runnemedes*, King *John* agreed to grant them the Great Charter of *Liberties* and *Forests*; the Title to this Agreement being still upon Record, runs thus in *English*.

*The Agreement between John, King of England, on the one part, and Robert Fitzwalter, Marechal of the Army of God and the Holy Church of England, and Richard de Clare, with five other Earls and six Barons there named, together with other Earls, Barons, and * Freemen of the whole Kingdom, on the other part, &c.* *Rot. Clause 17*
Johan. M. 2.
Dors.
Liberi Homines

And tho' this Assembly was not call'd by the King's Summons, but met there against his Will, yet it is look'd upon by all our Historians as a Common Council of the Kingdom, consisting of the Nobility, Gentry, and Freemen of *England*, who were there present in their own Persons, to consent and accept of this Charter, which the King was then ready to seal to them.

But since Dr. Brady will not allow this to be a Great or Common Council of the Kingdom, any farther than in respect to the Great Lords and Tenants *in Capite*, I shall give you his Exceptions against it in his own words. In his Answer to † Mr. Atwood's *Jani* † *Pag. 169.*
Anglorum, &c. where he will not allow that Gentleman's sense of the words *Liberi homines*, that they comprehend all the Freemen or Free-Tenants of what condition soever, but that the *Liberi Homines* mention'd in the Title to this Charter, were the same whom the King calls *Liberi Homines nostri* in the Charter it self, and to whom He there immediately grants several Relaxations of the Rigid Feudal Tenure, by which the Doctor supposes it to be apparent, that these

Liberi Homines were Tenants *in Capite*, and then refers to his *Glossary* for the farther explication of these words; which we shall also examine by and by.

But I shall shew, that the Doctor is not only out himself, but, I fear, wilfully misguides his Readers by this bold Assertion; for I leave it to any Person that will but read over King *John's* Charter, as it is in *Matt. Paris*, and will also take the pains to compare it with two Original Charters in the *Cottonian* Library, and in the Archives of the Cathedral Church of *Salisbury*, with the various Readings of it, as they are published in the *Appendix* to the second Volume of the General History of *England*: I say, I leave it to any Person to find (if he can) the word *nostri* join'd with *Liberi Homines* in the whole Charter, or the Additions to them, that were left out in the confirmation of it by *Henry the Third*: 'Tis true, in the second Article or Chapter, the King grants, *Liberis Hominibus Regni nostri*, &c. *omnes Libertates subscriptas*, where 'tis plain, the word *nostri* must agree with *Regni*, and not with *Liberis Hominibus*; but in no other Chapter or Article of this Charter can I find these words in the Plural, but only in the singular number, and then they are no Relaxations of the Rigid *Fendal* Tenures, as the Doctor will have them, but they extend to all the Freemen of the Nation in general, of whatsoever Tenure or Condition, as in *Cap. 26. Liber Homo non amercietur pro parvo delicto*, &c. *Cap. 34. Si aliquis Liber Homo capiatur, vel imprisonetur aut disseisetur*, &c. indeed the 26th Chapter, which begins, *Nullus Liber Homo de cetero & amplius alicui det vel vendat de terra sua*, &c. does extend to Tenants by Knight's Service in general, but not to Tenants *in Capite* in particular.

* *Pag. 17, 18.* Let us now look into his** Answer to Mr. *Petyt*, where you will find he falls a Peg lower; and there, notwithstanding his former positive Assertion, that the *Liberi Homines*, mention'd in the Title of this Charter, were only the Tenants *in Capite*, in the former Treatise he allows the *Liberi Homines* mention'd in the Conqueror's *Magna Charta* to be such as held in Military Service, tho' under other Lords besides the King. And in his *Glossary*, p. 51, he says, *They were the other Tenants in Capite, besides the Barons, or at least their Retinue, the Tenants in Military Service, who were at Runnemede when this Agreement was made*: The rest, who were only their Followers and helped to augment the noise, were not Law-makers; for 'tis not probable (says the Doctor) that those Men that had the Force of the Nation, would permit Men of small Reputation to share with them in Law-making; those that had the Power of this or any other Nation *de facto*, always did give Laws, and Tax the People.

* *Tit. Liberi Homines.*

In reply to this, I cannot but observe the Doctor's plain contradiction of himself; for whereas in his Answer to Mr. *A.* above-cited, he allows the Title of a Freeman only to Tenants *in Capite*; yet in his * *Glossary* he vouchsafes it to all other Military Tenants by Knight's Service, promiscuously; but as for all the rest of their Followers, the ordinary Freemen or *Freeholders* of the Nation, he says, they had nothing to do there, but to augment the noise; for it is not probable that they who had the Force of the Nation would permit

permit Men of small Reputation to share with them in Law-making.

This is indeed to beg the Question, and to suppose that the Tenants *in Capite* had the whole force of the Nation in their hands, when the inferior Tenants were ten times their Number; and every one knows that when they appear (as they did here) in a Military and not a Civil State, it is not Quality nor Riches, but Strength and Number that giveth them a Right to Vote or Act. For what Obligation had these Inferior Tenants to their Lords the Tenants *in Capite*, to follow them to make War upon the King till He would grant the Great Charter, if their Lords and not themselves, had the Interest and Benefit by it? but if they were like to be the better for it in respect of their Civil Liberties (as certainly they were) since many of the Privileges in the Great Charter do not relate to the Tenants *in Capite* alone, but to all other Freemen of the Kingdom; therefore, as far as these General Liberties granted to all the Freemen thereof, equally concern'd every private Person in that Assembly that was a Freeman and no Villain; he had certainly as much Right to give his Assent or Dissent to this Charter, as the greatest Lord or Tenant *in Capite* who was then in that Field or Meadow, and consequently, was a Party to this Agreement.

But as for the Objections that are rais'd from certain Clauses in this Charter, to prove, that none but the Greater Barons and Tenants *in Capite* had any Right to come to the present, or any future Great Councils or Parliaments, they shall be consider'd, when we come in the Second Part to recite Dr. Brady's Arguments.

I shall therefore proceed to the long Reign of *Henry the Third*, where we find plainer Proofs for the *Commons* being present in Parliament than before; and I shall begin with the first Confirmation of this *Great Charter* by this King, in the second Year of his Reign, when being but yet a Child, *Guallo*, the Pope's Legate, put his own Seal to it instead of the King's, which **Charter of Liberties*, concludes with these words, *Pro hac concessione, Archiepiscopi, Episcopi, Abbates, Priores, Commites, Barones, Milites, Libere-Tenentes, & omnes de Regno nostro dederunt Quintam decimam partem omnium Mobilium suorum*. Now from these Freeholders, and all others of the Kingdom by their Representatives, the Knights, Citizens, and Burgeses, made Parties to the granting of this Aid, it plainly appears that the *Commons* were present in this Parliament, as well as the Lords and Tenants *in Capite*: But since Dr. Brady has rais'd divers Objections not only against the sense in which we take the words last mention'd, but has doubted of the Antiquity of the Charter it self, I shall defer the further Consideration of this Point, till we come in order of Time to the ninth Year of this King's Reign, when this Charter was again confirm'd in Parliament.

* *Vid. Chartam Mss. in Bib. Lambeth & penes alios.*

I proceed to the other Authorities in our Historians and Records, and produce one made use of by Dr. Brady himself, to support his Opinion, which I suppose may be better urged to the contrary purpose; it is cited in his *Glossary*, p. 52. and is a † Writ directed to the Sheriff of *Northampton-shire*, setting forth, that for the payment 'of the King's Debts, and the preservation of *Poitou*, all the Mag-

† *Rot. Clauj 4. Hen. 3. M. 5. Dors. Append. Record. 12.*

'nates and *Fideles*, i. e. all the chief Men and faithful Subjects of

‘ the whole Kingdom had granted him a Gift of two Shillings out
 ‘ of every Plough-Land, to be collected by the Sheriffs and two of
 ‘ the most Legal Knights of the County, who were to be chosen by
 ‘ the Good-Will and Consent of all Men of the County, in a full
 ‘ County-Court to perform this business.

This Great Council, or Parliament, is not mention’d by any of our Historians except *Walter of Coventry*, who, in his Manuscript History thus reckons up the Members of this Assembly, *Archiepiscopi, Episcopi, Abbates, & Proceres Angliæ*, where, under the general word *Proceres* in this Historian, and *Fideles* in the Record, I suppose not only Tenants *in Capite*, but their inferior Tenants, or their Representatives, are comprehended. Dr. *Brady*, by this word *Fideles* would only have the Tenants *in Capite* to be here understood, but I see no reason for that, since the word is put without the restriction of *Nostri*; and so may signify either the King’s faithful Subjects, as Knights of Shires, or else any other inferior Tenants of sufficient Estates, who might grant this Tax in this great Council as well as their Lords; but yet that the word *Fideles* may be taken in either of these senses, the Dr. himself allows in his *Glossary*, *Tit. Fideles*. Note this Tax was a *Carvage* on all the Plough-Lands in *England*, of whatsoever Tenure, and so could not be imposed by the Tenants *in Capite* alone, upon those that did not hold their Lands by that Tenure. And further it appears by this Record, that this Tax was to be gathered by two of the most Legal Knights of the County, chosen by consent of all the County-Court; and therefore all who owed Suit and Service to that Court, had a concern in the gathering of this Tax: And it is very well known, that not only Tenants *in Capite*, but those who held by *Socage-Tenure*, were obliged to appear at the County-Court, and consequently had also their Representatives for the granting of this Tax, or else they could have had nothing to do in the choosing of those who were to collect it.

* B. A. J.
 p. 219.

The next is a piece of History patch’d up by the * Doctor, as making for his purpose, which, I think, will serve much better against it; it is an Account from *Matt. Paris*, *ad Ann. 1224*, being the eighth of this King’s Reign, of the Parliament held at *Northampton*, on the Octaves of *Holy Trinity*, where the King, with the Archbishops, Bishops, Earls, Barons, & *multis aliis*, being assembled to treat of the Affairs of the Kingdom, the Brother of *Faukes de Brent* seiz’d the King’s Justices then sitting at *Dunstable*, and carried them away Prisoners to *Bedford-Castle*; whereupon the King, by the Advice of his Parliament, rais’d Forces and besieg’d that Castle till it was taken; after which He had granted Him for his Labour and Expences, as well from the Prelates as Laymen, a *Carucage* throughout all *England*, of every Plough two Shillings of Silver; and then the King also granted to his Great Men a *Scutage*, *viz.* of every Knight’s Fee, two Marks *Sterling*; from whence the Doctor collects, that these *Alii multi* above-mention’d, were the Abbots, Priors, and other Lay-Tenants *in Capite*; who, together with the other Orders or Estates, granted this *Carucage*: But, I think, we may well interpret these words to extend not only to the Tenants *in Capite*, but to other Inferior Tenants, by whatsoever free Service, who were there
 by

by their Representatives. For how otherwise (as I said before) could a general *Carnage* upon all the Plough-Lands throughout *England* be legally imposed? since the great Prelates, Earls, Barons, and Tenants *in Capite* could never represent the Tenants of such Abbots and Priors, who held their Lands in *Frank-Almoigne*, and not *in Capite*, and so were not summon'd to this Parliament; as also all Tenants in *Antient Demesne*, and by *Socage* and *Burgage* Tenures; and lastly, Tenants by *Petty Sejeantry*, and those who held Lands of the King by Fee-Farm, paying a certain Rent: All which, together with their Under-Tenants, could never be Taxed or Rated by those who were none of their chief Lords; since upon these Gentlemen's Principles, whom we oppose, the only reason why the Tenants *in Capite* could grant Taxes for their Under-Tenants, was, that holding their Lands of them in Fee, they did in some manner represent them, and were bound by their Acts: they could never represent or dispose of the Estates of those that had no such Relation; and therefore by these *multi Alii* must be meant other than meer Tenants *in Capite*. But seeing a late Learned Writer, (who had done better if he had not given himself up too much to Dr. Brady's Notions) thinks the Historian destroys the words *All others*, by what follows after, the King's meeting all the Estates above-mention'd, *Rex enim voluit uti Consilio Magnatum suorum*, i. e. *for the King would make use of the Advice of his Great Men*; by which Expression this Author supposes none but Prelates, Great Lords, and Tenants *in Capite* can be understood: Had he been a little better versed in our Records, he would have found that under *Magnates*, the Knights of Shires, called *Grantz de Countees* in *French*, are often comprehended, as well as the Earls and Barons, as shall be made out in another place; but as for the *Scutage* here granted by the King to the Great Men, out of every Knight's Fee held of them, it had nothing to do with this Tax, neither did it extend to all the Sub-Tenants by Military Service, but only to such of them, who, having either through the desire to save Charges, or out of their Lord's Favour had been spared from performing their Services at the Siege of *Bedford-Castle*, the King, by his Prerogative, granted their Lords Writs or Warrants to receive *Scutage*-Service from all such Tenants proportionable to the Time their Lords had been in the King's Service, sometimes one Mark, sometimes two or three, as * Dr. Brady, in his Answer to Mr. Petyt, acknowledges.

Dr. Wake's
State of the
Church, &c.
p. 191.

* Pag. 116,
117.

I come now to the next Parliament held presently after *Christmas* the following Year, viz. 1225, where our † Historian tells us, the King being present with the Clergy, People, and Great Men of the Realm, *Hubert de Burgh*, in the King's Name, demanded a Subsidy of the Archbishops, Bishops, Earls, Barons, and all Others there present, to which the whole Assembly of the Prelates, Earls, Barons, Abbots, and Priors, after some deliberation, answered, that they would willingly comply with the King's Desires, provided He would grant them their long requested Liberties; the King hereunto consented, and immediately order'd the Charters to be drawn up and seal'd with his Great Seal, and sent into every County of *England*; which being perform'd, the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, Freeholders, and all Persons of the Kingdom

† Matt. Paris
Pag. 272.

dom granted the King a *Fifteenth* of all their moveable Goods, as appears by the Confirmation of this Charter in the second Year of this King; from whence it may be collected, that the *Clerus* and *Populus*, that granted this Tax, were different Persons from the Great Men that follow in the said Recital; and that under the word *Populus* here mention'd, are comprehended the *Milites*, *Libere-Tenentes*, & *Omnes de Regno*, in the conclusion of this Charter, and who (with the rest of the aforementioned Orders) granted the King this Aid.

* B A J.
pag. 211.

But Dr. Brady, to evade the force of this Authority, hath rais'd divers specious Objections against the validity of this Charter, as also against that granted in the second Year of this King, as if there were not now any true authentick Copies of them, since the Originals are not extant; and therefore in his Answer to Mr. A. maintains with great Confidence, that the Great Charter commonly attributed to *Henry the Third*, and stil'd his Charter in our Statute-Books, was properly the Charter of *Edward the First*, or perhaps rather his Explication or Enlargement of that Charter of King *John*, and *Henry the Third*, for we find neither the Great Charter of that or King *John's* Form in any of the Rolls, until the 25th of *Edward the First*; and He had a greater Summ of Money for the Confirmation of this Charter than *Henry the Third* had, as 'tis recorded in the Summons to a Parliament for that purpose: The Writ it self you may find at length, of which I need not repeat any more than the Title, *De veniendo pro confirmatione Magnæ Charte*, i. e. a Summons for coming to Parliament for the confirmation of *Magna Charta*. I shall also add the rest of what the Doctor says concerning this Subject, which will shew, that he wrote in haste, and did not consider, that the validity of these Charters could be made out against him: his words are these; † In this Charter, (*viz.* that of *Edward the First*) then confirm'd, there is no provision made for any Summons to Great Councils or Parliaments, and the reason may well be, because the Constitution of Great Councils or Parliaments was lately chang'd from what it was in King *John's* Time, until the 49th of *Henry the Third*; nor perhaps was it so fix'd, and peremptorily resolv'd on at this time, what it should exactly be for the future, as to have it made an Article of the Charter; and to this conjecture, the frequent variations of Summons to Parliament in those Times, do give a probable confirmation.

† *Ibid.*

The Doctor is here very right in the Observation he hath made upon this Charter, that the Clause concerning the summoning of the greater and less Tenants *in Capite* to the Councils of the Kingdom, is left out in this Charter of the Confirmation of *Edward the First*; but he is very much mistaken in supposing this to be the first time that it was so omitted; for had he been pleas'd to have consulted any of the Manuscript Copies of it, either of the second or ninth of *Henry the Third*, he would there have found this very Clause to have been omitted in both of them; so that if the Doctor's Inference which he draws from this Omission be true, it makes directly against his Hypothesis; since according to his own Assertion, if the Constitutions of Great Councils or Parliaments was now chang'd from what it was in King *John's* Time, this Change must have

have consisted (as the Doctor acknowledges) in the omission of summoning the less Tenants *in Capite* to the Common Councils of the Kingdom, and consequently of bringing in the Knights of Shires in their rooms, which must have been at least as antient as the second of *Henry the Third*, when we find the Clause above-mention'd to be omitted in his Charter.

But I shall say more concerning the omission of this Clause in another place, when I come to consider the Doctor's Arguments; in the mean while I shall only take notice, that his Conclusion is very precarious, *to wit*, ' that the very constitution of Parliaments was not ' so fixed and peremptorily resolved on at this time (*viz.* the 25th ' of *Edward the First*) what it should be for the future, as to have ' it made an Article of the Charter. But to obviate this, it appears, that from the twenty third of this King's Reign, which we have still left upon the close Rolls, the Writs of Summons to most Parliaments are directed both to the Lords and Commons, to the end of the Reign of King *Edward the Fourth* : And tho' the Doctor, in other places, endeavours to shew some variation in the Writs of Summoning Knights of Shires, as that at sometimes two, and at other times three or four, had been summon'd for each County ; and that the Citizens and Burgeses were sometimes omitted to be summon'd to Parliament at all in this King's Reign ; I shall defer the further consideration of this till I come to treat upon that Subject, when I shall plainly shew the Doctor's Mistake in this Matter ; and that it was not to Parliaments, properly so call'd, but only to Great Councils upon extraordinary Occasions, that more than two Knights were summon'd for each Shire ; and if the Citizens and Burgeses were omitted to be call'd to them, it was because the King had then no need of their Advice.

But I shall now return to the Matter from whence the Doctor hath forced me to digress ; and that is to Answer those Cavils, rather than real Objections, which he hath made against the validity of the Charters of the second and ninth of *Henry the Third* : And as to them it may be thus answer'd.

First, For the Charter granted in the second of this King, tho' the Original of it hath been long since lost in *England*, yet there are still extant divers antient Manuscript Copies of it, as old as the time of that King, some of which I my self have seen ; and there either is, or was lately extant at *Dublin*, an antient Copy of this *Magna Charta* of the second of *Henry the Third*, enter'd in the *Red Book* of the Exchequer there, granted to all the *English* Subjects of *Ireland*, being the same, *mutatis mutandis*, with that granted to *England*, which cannot be suppos'd to have been done, unless his *English* Subjects should in the first place have had the like confirm'd to them. And as to the Authentickness of those Copies that are extant of the ninth Year of this King, there are several of them in the Custody of Lawyers and Antiquaries ; and Mr. *Petyt* has one of them, in an antient Copy of the old Statutes written in the time of *Edward the First* : But to put it more out of doubt, I have seen in the Custody of Sir *Nathaniel Powel*, Benchet of the *Inner-Temple*, a fair Original of this *Magna Charta*, dated the ninth of *Henry the Third*, under the Seal of that King (which once belonged to *Battle-Abby.*) And there

there are also two printed Copies of it in the Annals of *Burton* and *Waverly*, in each of which the first of the Witnesses is not Archbishop *Boniface*, as it is falsely printed in our ordinary Statute-Books, but *S.* which stands for *Stephen Langton*, who was then Archbishop: And if any one will take the pains to examine and compare these two Charters of the second and ninth of *Henry the Third*, with the Charter confirm'd by *Edward the First*, he will find them all one and the same in almost every word; and therefore this last was no explication or enlargement of the former Charters, as this Author fancies, I suppose, without ever troubling himself to compare the one with the other.

B. A. P. p. 11. Having asserted the Truth and Antiquity of these Charters, I shall now go on to answer the Doctor's Arguments, whereby he would prove, that none but the Bishops and Lords granted King *Henry* a *Fifteenth* for the Confirmation of *Magna Charta*; and this he draws from the above-mention'd Relation of the manner of granting it, set down by *Matt. Paris*; from whom the Doctor observes, that none but the Bishops, Earls, Barons, Abbots, and Priors, return'd the King this Answer, that they would comply with his Demands, if He would grant them their long requested Liberties; and that the King consented to these their Desires: And from this Account of this Parliament or Great Council, the Doctor concludes, that the Men that consulted about the King's Demands, that gave the King this Answer, and that also granted a *Fifteenth* of the Moveables, as well of the Ecclesiasticks as Laicks of the whole Kingdom, were only the Archbishops, Bishops, Earls, Barons, Abbots, and Priors; and therefore they were the only Constituent Parts of this Parliament, as they were also of the Parliament held at *Merton*, in the 20th Year of this King's Reign; the circumstances of which the Doctor has here given us from *Matth. Paris*.

I shall say nothing to this last Authority, till I come to it in order of Time, but will here only answer this Argument, or rather Consequence the Doctor draws from the words of this Author: I would ask his Friends (since he is not, and so cannot answer for himself) if this be an exact Account in *Matt. Paris* of all the constituent Members of this Parliament, who gave the King this Answer, and consequently the Aid that follow'd it, how this could be a Common Council of the Kingdom, according to King *John's* Charter; for since the least of the Lay-Orders there mention'd are Barons, the less Tenants *in Capite*, who were then no Barons, (by the Doctor's own Confession) could be no Parties to this Answer, nor consequently to the Grant of this Aid; so that it seems the Great Charter of King *John* was no Pattern for all future Parliaments, as the Doctor has maintain'd in another place. But perhaps it may be said, that the less Tenants *in Capite* were present in this Parliament, but did not give any Answer to the King's Demands, because they left that to the Bishops, Earls, and Barons, &c. to do it for them; yet that they were there, and gave their Consents to the granting this Aid, appears by the very words at the latter-end of this Charter, where it is said, that the *Milites* and *Libere-Tenentes*, that is, the less Tenants *in Capite* join'd in the granting the King this *Fifteenth* of their moveable Goods.

Well,

Well, suppose for the present we grant this to be so, what will then become of the Doctor's Assertion from *Matt. Paris*, that none but the Parties there mention'd gave this Tax? so that the less Tenants *in Capite* being quite omitted by this Author, there is no depending upon his Authority, that there were no other Lay-Persons there, than the Earls and Barons, and the rest there mention'd, since the very Charter it self shews there were many Others, even besides those less Tenants *in Capite* who gave this Aid; for supposing as much as can be desir'd, that by *Milites* are to be understood those Military-Tenants, yet the *Liberi-Tenentes*, and *Omnes de Regno* must be another sort of Men, who were also Parties to this Grant, or else the constituent Members of this Council would be twice or thrice repeated.

But because the Doctor will not allow of this natural sense of these words, and does his utmost endeavour to wrest them to quite another meaning, and make the less Tenants *in Capite* no Parties to this Grant, I shall here give you his Arguments in his own words, 'If (says he) these words of this Charter are literally to be understood, that *Omnes de Regno*, that is, *All the Men of the Kingdom*,
B. A. P. p. 152, 126.
 'granted this Aid, then it will follow, that as well those that had Estates in Land, as those that had not, all Copyholders, all Tradesmen, all Bondmen and Villains (of which there were great store in those Days) and all Servants were there present as Members of Parliament; and then I would willingly know where all these People should meet, how their Councils should be managed, and how it is possible in such Meetings (if any such there can be) to prevent the greatest Confusion imaginable? The meaning then of these words must be, that the Archbishops, Bishops, Abbots, Earls, Barons, Knights, Free-Tenants, and all of the Kingdom, or all the King's Subjects *dederunt*, that is, *paid* a Fifteenth part of their Moveables to the King, for his granting these Charters, not that they themselves gave or granted this Subsidy; and 'tis reasonable to conclude, that all the King's Subjects paid the fifteenth Part, because one way or other, little or much they enjoy'd the benefit of them. I take this to be the genuine sense of these words, but *Matt. Paris* makes it very apparent, who were the constituent Parts of this Parliament; for if you please there to observe, the Men to whom the Chief Justice propos'd this *Fifteenth*, and those who consulted about the King's Demands, and those that return'd an Answer to them; and also granted the fifteenth Part of the Moveables, as well of the Ecclesiasticks as Laicks of the whole Kingdom, were only the Archbishops, Bishops, Earls, Barons, Abbots, Priors; and therefore they were only the constituent Parts of this Parliament, as they were also of the Parliament or Great Council held at *Merton*, in the 20th Year of the King's Reign, whither, says *Matt. Paris*, *Consummato cum gaudio Nuptiali convivio, Rex recedens à Londinis venit Mertonam ut ibi convocati Magnates de Regni Negotiis contractarent.*

Having given you the Doctor's forced Interpretation of this Clause of these Charters, and the Authority he hath brought to confirm it, I shall now make a Reply with some other Observations upon it; and to begin with his Objection against these words,

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*Gloss. p. 33, 34.

Liberi Tenentes & Omnes de Regno dederunt; by which he will needs have it understood, that since it was impossible for all the Freeholders and Others of the Kingdom to be personally present at this Parliament, therefore they had no hand in the granting of this Subsidy upon their Goods, as if they could by no means grant any thing by their Representatives: But the * Doctor in another place is more easy, when he grants, that the *Commons* were summoned to another Parliament (as appears by a Record of the 35th of *Edward the First*) when the Archbishops, Bishops, Earls, Barons, and *Communities* (i. e. the *Commons*) of Counties, gave the King a 'Thirteenth Part of their Goods, as if (says he) they were all 'Members and sat in this Parliament; and so it is said of the 'Cities and Boroughs, that the Citizens, Burgeses, or the *Communities* of Cities and Burghs, gave a Twentieth Part of their 'Moveables, as if they had been all there; but these words signify 'no more, than that the Knights and Freemen gave by their Representatives, as is most clear from the Writs of Expences for the 'Knights of *Lincolnshire*, which he there gives us at large. Now, I would be glad if any one would inform me, what is here meant by the *Communitates Comitatum & Communitates Civitatum*, &c. which the Doctor translates *Communities*, but the *Commons* of those Places? for the Doctor does not love to make use of that word if he can avoid it. Secondly, I would fain know the reason why these Freemen and *Communities* (as he calls them) could give by their Representatives in the Time of *Edward the First* the Tax above-mention'd; and yet the Freeholders, and all Others of the Realm, cannot be understood to do the like by their Representatives in the Reign of *Henry the Third*; but if this be given for a Reason against it, because the *Commons* were not then represented in Parliament any other ways than by their Lords the Tenants *in Capite*. This is to beg the Question, quite contrary to the express words in *Magna Charta*, which say, *That the Freeholders, and all Others of the Kingdom granted a Fifteenth*, as well as the Bishops, Earls, and Barons.

I shall now further shew, the Doctor's Error in the Interpretation of these words, whereby he would have it understood, that none but Archbishops, Bishops, Earls, and Barons granted this Subsidy; for in the first place he hath here omitted his beloved Tenants *in Capite*, that were then no Barons, out of his Catalogue of Givers, who, it seems, as well as the rest of the ordinary sort of People, must only pay their share, but granted nothing; yet since there is but only one Verb, viz. *Dederunt*, which governs the whole Clause or Sentence, I would fain know, why in respect of the Archbishops, and all the rest of the Parties, the Doctor there mentions as the Granters of this Aid, this Verb must be construed, *They granted*; but as to the *Liberi-Tenentes & Omnes de Regno*, it must be understood, they paid it? And why may not one, if he would be as perverse as the Doctor, construe it, *They paid* in respect of them all, that is, the King demanded a Fifteenth by his Prerogative, and they paid it, without any Power to Grant or Refuse? but indeed there is no need at all to wrest the word *Dederunt* from its natural sense, and make it, *They paid*, more in respect of one than the other.

And

And therefore I shall give you some Authorities from divers Antient Writers, that this word *Dederunt* could only signify, *They gave*, in respect to *all the Parties* there mention'd; and for this see the Annals of *Waverly*, in the second Volume of Dr. Gale's Collections printed at *Oxon*, where, under this Year, *An. Dom. 1225*, after Pag. 182 having given us a short Account of the granting these Charters in the Ninth of *Henry the Third*, they recite the Conclusion of the Great Charter in the same words, as they are in the Charter it self; only before *Dederunt* there is also added the word *Concefferunt*, which shews, that the Author of this part of those Annals, who might very well write about the same time, or presently after the Charter was granted, by the Addition of the Verb *Concefferunt*, intended to prevent any such Mistake in the Interpretation of the following word *Dederunt*. And that it was the Opinion of all other Historians of this Reign, is further confirm'd by the Manuscript Chronicle of * *Walter of Coventry*, who lived and wrote in that * In Bib Cotton. very time, after he has given an Account of the Members of this Council, under the general Title of *Proceres Angliæ*; and that the King had then a fuller Treaty with the *Clergy* and *People*, to whom He then confirm'd the above-mention'd Charter of Liberties, concludes thus, *Ibidem concessa est Domino Regi à Commitibus & Baronibus, & Clero & Populo, Quinta Decima omnium Bonorum*. Now, who can be meant by the *Populus*, mention'd in both these Authors distinctly from the Earls and Barons, as present at this Parliament, but the Commons, as now understood? who also (as this last Author expressly tells us) granted this *Fifteenth*, tho' *Matt. Paris* has omitted that remarkable circumstance; and *Henry de Knighton*, who lived somewhat more than one hundred Years after this Charter was granted, in his History, hath this Passage, under this Year, *Post hæc Rex Henricus concessit Magnatibus Terræ duas Chartas, unam de Foresta, & aliam de Libertatibus propter quam causam Communes Regni concefferunt quintam decimam Partem mobilium*. The last words being very remarkable I shall translate; for which cause the Commons of the Kingdom granted a Fifteenth of their Moveables: From whence it appears plainly, that at the time when this Author wrote, it was generally believed, that the Commons, under the Title of *Liberi Tenentes & Omnes de Regno* in this Charter, granted the Fifteenth of all their Goods.

And further, in Answer to the Doctor's Citation concerning the *Magnates* who met at the Parliament at *Merton*, it appears, that under the word *Magnates* in *Knighton* the Knights of Shires must be included, or else King *Henry* granted those Charters only to the Bishops, Lords, and Tenants *in Capite*, which certainly no Man that hath read the *Great Charter*, and that of *Forests*, but once over, would take upon him to maintain; but the Doctor, in his * *Glossary*, in his † Answer to Mr. *A's. Janus, &c.* as also in other places, * P. 217, 218.
† P. 64. will needs have the *Omnes de Regno* (who gave this Subsidy of a *Fifteenth* of their Personal Estates) to be Tenants *in Capite*; and that these words signifie no more than the *Omnes alii de Regno*, who are mention'd in a * Writ on the Close Roll of the Nineteenth of *Henry the Third*, directed to the Sheriff of *Somersetshire*, in these words, *Sciatis quod Comites, & Barones, & Omnes alii, &c. de toto Regno* * M. G. Dorf.

Regno nostro concesserunt, nobis efficax Auxilium, which, says he, is further explain'd by another Writ on the same Roll, directed to the Sheriff of *Sussex*, beginning thus, *Sciatis quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & Omnes alii de Regno nostro Angliæ quide nobis tenent in Capite nobis concesserunt*, &c. here (says the Doctor) the *Omnes alii de Regno*, were the *Omnes qui de nobis tenent in Capite*, which were then all the *Regnum* or *Communitas Regni*, that is, the whole Kingdom, or Body of it.

But I desire no better an Argument for the Confutation of this Opinion, than his own Authority, which he hath here cited; for tho' in the first of these Writs, the Earls, Barons, and *All others* of the Kingdom, are said to have granted this *Aid*; yet in the middle of this Record it is restrain'd only to the Earls, Barons, and *All others* who held of the King *in Capite*; and the next Writ plainly shews, who were the sole Parties to these Grants, *viz. Omnes Alii qui de nobis tenent in Capite*; and I do not deny but that the Doctor hath produced several Precedents, to prove that the Tenants *in Capite*, in those Times, gave the King Subsidies or Aids, not only for themselves but their Tenants, who held of them by Knight's Service; but what doth this signify to this Clause in these Charters, where the words are not, *Omnes qui de nobis Tenent in Capite*, but *Omnes de Regno, in General*?

For, notwithstanding all the Doctor's Skill, he could never be able to prove, that his Barons and Tenants *in Capite* were the sole Representatives of the whole Kingdom, as he there supposes; for who but himself could ever imagine, that the Tenants *in Capite*, who were not half the Kingdom, should have a Power to Tax and Assess not only themselves and their own Tenants, but those that held by *Socage-Tenure*, as the Tenants of the King's *Antient Demesns*, and *Socage-Tenants* of other Lords; as also those that held of Bishops and other Great Men; as likewise the Tenants of all such Abbies, Nunneries, and Religious Houses, whose Priors and Abbesses never appear'd in Parliament; besides, the City of *London*, and all other Cities and Boroughs, some whereof held immediately of the King, and Others of Lords and Bishops, not by Military, but *Socage* and *Borough-Tenure*, and consequently could never be represented by the Tenants *in Capite*, unless the Doctor or his Friends could prove, that all Men in those Days held their Personal Estates, as well as Lands by Military Tenure; which is such an Absurdity, that, I think, none that have any knowledge of the Laws of *England*, can ever be guilty of: But unless the Doctor can prove this, neither he nor his Friends will ever convince any indifferent Reader, that the Barons and Tenants *in Capite* could, in those days, give a Fifteenth Part of the Moveable Goods of all the Subjects of the Kingdom, who never held of them at all. To conclude, if the greater and less Tenants *in Capite*, as the Representatives of the whole Kingdom, could impose what Taxes they pleas'd upon those that were none of their Tenants, they certainly very little understood their own Interest, and had been very improvident in granting the King so much out of every Knight's Fee, held either by themselves or their Tenants, whereby all the rest of the People escaped *Scot-free*; whereas if they had either given a general *Carucage*, or a Tax upon all

all Moveables, they and their Tenants would have been much more eas'd, and the Burthen have been equally laid upon the whole Kingdom.

I have dwelt the longer upon this Point, but hope I shall not be thought tedious, since if this be once plainly prov'd, that the Commons of *England* sent their Representatives to Parliament, in the Second and Ninth of *Henry the Third* (when the *Great Charter* was twice confirm'd in a few Years) it is highly probable they continued throughout the rest of this Reign.

I shall therefore now go to the Sixteenth of this King, being *A.D.* 1232, when He held a * *Colloquium* or Parliament, with the Bishops, Prelates, and *Proceres*, i. e. Chief Men of the Kingdom; now who these *Proceres* were, the same Chronicle tells us, presently after, shewing, that then the King received from the Archbishops, Bishops, Abbots, Priors, and Clerks, having Lands, which did not belong to their Churches; as also from the Earls, Barons, Knights, Freeman, & *Villani*, i. e. the Inhabitants of Towns, a fortieth Part of their Moveables. This is also confirm'd by a † Writ, which was issued out for the raising it, where it is expressly recited, that all the Parties mention'd in this Historian, granted the King this Aid of a Fortieth Part of their Moveable Goods; tho' as to the *Liberi Homines* here mention'd, I know the Doctor would have them only mean all those that held of the King *in Capite*; yet that they signify all other sorts of *Freeholders*, I have already proved; and the Doctor himself, in his *Glossary*, grants, that they do not only signify Tenants *in Capite*, but all other *Military Tenants* whatsoever; and by *Villani* * he allows to be meant, either Villains, or the Inhabitants of Towns or Villages, or else Representatives for such Towns as held of the King *in Capite*, such as might be the Burgesses of *St. Alban's*. As for the first of these Interpretations it can by no means be true, since the Villains or Bondmen having no Property could pay no Taxes; but if it be taken for the Inhabitants of smaller Towns, they were represented by some of the Orders of Men already mention'd: And if they were the Inhabitants of Boroughs, whether they were those that held *in Capite* or not, they gave this Fortieth Part by their Representatives; and therefore the Cities and Boroughs must have appear'd in Great Councils or Parliaments many Years before the Forty ninth of this King; and that not only such of them as held *in Capite*, but other Boroughs, that held of Bishops or Great Lords, I shall make out further in due Time: However, this Tax being a general one upon all *Moveable Goods*, could never reach the whole Kingdom, if only the Tenants *in Capite* had been the Granters of it, for the Reasons already given; and therefore by the *Milites*, *Liberi Homines*, and *Villani*, mention'd in these Records and Histories, the Knights, Citizens, and Burgesses are, and must be understood.

I shall now proceed to the Statute of *Merton*, cited by the Doctor to make out his Notion, that none but the *Magnates*, i. e. Great Men and Tenants *in Capite* were present at it; the Preamble of this Statute runs thus; * *Provisum est in Curia Domini Regis Henrici, &c. coram Will. Cant. Archiepiscopo, & Episcopis Suffraganeis suis, & co-*

* *Annal de Waverley.*

† *Rot. Claus. 16. H. 3. M. 2.*

† *Tit. Liberi Homines. p. 51.*

* *B. J. A. p. 220, 221.*

* *Vid. Totel's Old Edition of Statutes.*

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ram majore parte Comitum & Baronum Angliæ ibidem existentium, &c. ita provisum fuit & concessum tam à prædictis Archiepiscopis, Comitibus, Baronibus, quam ab ipso Rege & Aliis. Now by these *Alii* put after *Rex & Barones*, I suppose the Commons in the Sense they are now us'd are to be understood; but I am sensible that it will be alledg'd by those of Doctor *B's* Opinion, that by these *Alii* or Others, are to be understood the less Tenants *in Capite* only: To which it may be reply'd, That this is only *gratis Dictum*, and without any Proof; for if the Word, *Barones*, in the Doctor's Sense comprehends all the Tenants *in Capite* in general, I would be glad to know, Why it should not do so here too? And therefore it lies upon the Gentlemen of the contrary Opinion to prove, that these *Alii* here mention'd, were no Other than the less Tenants *in Capite*; whereas I may as well affirm the contrary, especially since I have already proved from the last Authorities, that the Commons were present in the Parliaments of the Second, Ninth, and Sixteenth of *Henry the Third*; and therefore I cannot believe they were excluded that Great Assembly at *Merton*.

* *B. J. A.* In another * Writ of the next Year (quoted also by the Doctor) it is there recited, 'that the Archbishops, Bishops, Abbots, Priors, f. 221. Rot. Earls, and Barons of the whole Kingdom, having on the Octaves Claus. 21. H. of *St. Hillary* treated with the King, concerning the state of the 3. m. 7. Dorf. ' Kingdom the same Prelates abovemention'd, as also the *Clerics* or ' Clergymen) having Lands that did not belong to their Churches; ' and likewise the Earls, Barons, Knights, and Freemen, for themselves and their *Villains*, granted the King, as an Aid, a Thirtieth ' Part of all their Moveables.

From which Record we may observe, that tho' none but the Parties first mention'd are here said to have treated with, or advised the King; yet Others besides them, *viz. the Clerics having Lands, and Freemen of the Kingdom*, are also made Parties to this Grant; and in this Record the word *Villani* signifies the Rustics or ordinary Husbandmen, or Copyholders at Will under those Freemen, but they were not Bondmen or Slaves (as the Doctor will have them to be); for all the Goods they had being their Lords, they could not be capable of such a Tax. The Doctor would also have these *Liberi Homines* here mention'd, to mean only the Tenants *in Capite*, but that is a great Mistake; for the word *Milites* here placed after *Barones*, must, according to the Doctor's own sense of that word, signify the less Tenants *in Capite*; and if by *Liberi Homines*, or Freemen, the same sort of People are also to be understood, it would make this Record guilty of a foolish and impertinent Tautology, in repeating the same Order twice; and if none but Tenants *in Capite* granted this Tax, which was upon all the Moveable Goods of the Kingdom, then they must have taxed all those whom they could no ways represent, which they had no Right to do.

My next Instance is from *Matt. Paris, ad A. D. 1244*, on the 28th of this King's Reign, when the *Great Men* of the Kingdom Assembled at *London* by the Royal Summons, *viz. when the Archbishops, Bishops, Abbots, Priors, Earls, and Barons*, that is, the whole Parliament, were met at *Westminster-Hall*, upon the King's desiring an Aid

Aid of them, they all left the Hall, the Archbishops, Bishops, and the rest of the Ecclesiasticks last mention'd, went aside by themselves to treat of it; and when they had agreed, they sent to the Earls and Barons (who were likewise in another place by themselves) to know if they would unanimously comply with them; but they answer'd the Bishops, that *Sine Communi Universitate*, that is, without the consent of the whole Body of the Kingdom they would do nothing. The Doctor, I know, translates these words, *Common University*, because the Reader should not know what is meant by them; and when he does undertake to interpret it * he * B. A. P. p. 94, 103, 104, 105. always makes it to consist of the Bishops, Abbots, Priors, Earls, and Barons alone, or else of them and the less Tenants *in Capite*, taken together; yet that there must be more intended by it in this place, appears by this Answer of the Lords, that they would do nothing *without the Common or General Body of the Kingdom*. Now, if the Bishops and other Ecclesiasticks met in one Room, and the Earls and Barons, and Tenants *in Capite* in another, what could hinder these Estates from presently agreeing and coming to a Conclusion, if they alone had made up this *Common University* (as the Dr. calls it)? but we find it otherwise; for tho' the Bishops and the rest of the Prelates sent to the Lords to see if they would agree with what they had resolv'd upon; yet the Answer of the Temporal Lords is, that *Sine Communi Universitate nihil potuerunt*, they could do nothing; now, I know not what should be meant by these words, *Sine Communi Universitate*, but without the Representatives of the Commons, as now understood; for that they were the less Tenants *in Capite*, * Dr. Brady will not allow, for they Ib. p. 127. being meer Commoners, his Assertion would not have been true, that there were no Commoners in that most general Parliament of the 30th of this King: But to return to my Author.

It there presently follows, *that by Common Assent*, (that is, of the whole Body of this Parliament) there were elected four Bishops for the Clergy, and for the Laity four Earls and two Barons, with two Abbots; yet this does not at all infer, that an Inferior Order of Men might not have join'd with them in their Choice, tho' they might not think fit to chuse any of their own Order; as being not so powerful and considerable as the Great Earls and Barons.

I shall now further proceed to shew you, of what Members this *Universitas Regni*, or General Body of the whole Kingdom then consisted, which appears by that General Parliament, which *Matt. Paris* tells us, was held in the twelfth Year of this King, A.D. 1246. when there met at *London* All the Nobility of the whole Kingdom, that is to say, the Prelates, as well the Abbots and Priors, as Bishops; and also the Earls and Barons, that they might treat effectually of the unsettled State of the Kingdom, according to the urgent necessity of it. In this very Parliament the King confer'd with the Bishops by themselves, the Earls and Barons by themselves; as also with the Abbots and Priors concerning those things about which He had already sent his Ambassadors to the Council of *Lyons*, viz. the Grievances of the *Roman Church*: The result of these Conferences was, that yet for the reverence due to the Apostolick See, they should again supplicate the Pope by Letters, to remove
that

that insupportable Yoke of Exactions here in *England*; whereupon the Bishops wrote by themselves, the Abbots and Priors by themselves, and the Earls, Barons, & *Alii Magnates*, and the other Great Men wrote Letters to the Pope by themselves, which are thus directed, *To the most Holy Father, &c. Your Devoted Sons, Richard Earl of Cornwal, and the rest of the Earls there named, with the other Barons, and the Chief and Great Men of England, and the Noble Inhabitants of the Sea-Ports, as also the whole Clergy and People, with Health.* From which Direction, drawn up in Parliament, on the behalf of all the Laiety and Inferior Clergy, it appears, that there were other Great Men called *Magnates* (most likely the Knights of Shires) and also the Barons of the Cinque-Ports, here called *Nobiles Portuum maris Habitatores*, who join'd in this Answer with the Earls and Barons abovemention'd. But *Dr. Brady will by no means admit of this Interpretation of these Phrases, but will have them to be a meer troop of words drawn up in this Letter to no other purpose than to make an Impression upon the Pope, and shew Him the great dislike the Nation had of his Exactions and Encroachments, and to induce Him to a Compliance with their Desires, the *Multitude* not being any ways Parties or privy to the writing of the Letter; for the Clamour of the People was a great Argument used in all these Letters to affect the Pope, how ungrateful his Impositions were to the Nation. And here the Doctor produces several Passages out of this Letter, as also out of the King's Letter to Him about the same Affair, that the Clamour of the Great Men and People against these Abuses were so loud, that they were not any longer to be endur'd; so that it was from this general Clamour of the People, and not from their being Parties to it, that the beginning of this Letter from the Baronage of *England*, was stuffed with so many Words and Phrases, being only done to awaken the Pope, and incite Him to redress their Grievances.

But with the Doctor's good Favour, I cannot believe that all this was a meer empty troop of words (as he calls it) only to frighten his Holiness into a compliance with their desires; for the Pope was better inform'd by his Tax-gatherers and Emissaries in *England*, concerning its Civil Constitution, than to be so impos'd upon; and therefore, albeit I do not affirm, that the Multitude or Rabble without Doors had any hand in this Letter; yet I cannot conceive, unless their Representatives were Parties and privy to it, to what purpose the *Magnates ac Nobiles Portuum Habitatores* are here mention'd after the Earls and Barons; since had not this Clamour of the Great Men, Clergy, and People been made in Parliament, the Pope might have had good reason to deny the Matter of Fact, and return in Answer, that He did not believe there was any such Clamour at all.

The same Author mentions another Parliament held in the thirty second Year of this King, *A. D.* 1248, and to have met on the Octaves of the Purification of the Virgin at *London*; at which, besides a multitude of Barons, Knights, and Nobles; as also of Abbots, Priors, and Clergy, there came nine Bishops, and as many Earls; from whence I observe, that tho' by the *Milites* put after *Barones*, the less Tenants *in Capite* may be meant; yet by the *Nobiles* that follow

* B. A. P.

pag. 106, 107.

follow them, I can understand no others than the *Nobiles minores*, the less Nobles, such as Knights of Shires; for all the rest of the Lay-Orders were already expressed.

A few Years after this the Annals of *Burton* under A. D. 1252, mention a Parliament to be held at *Westminster*, where the two Archbishops, the Bishops, Earls, Barons, and (*Magnates*) Great Men of the whole Realm of *England* were present; by these *Magnates*, put after the Barons, may we not understand, at least, the Knights of Shires?

Under the Year 1253 *Matt. Paris* relates, that all the Nobility of *England* being met at *London*, by the King's Summons, He again confirm'd the two Charters, and then the Archbishop of *Canterbury*, with the consent of the rest of the Bishops, solemnly *Excommunicated* all those that should violate them, the King himself being present, and consenting to it; the circumstances of which you may see in our Author; but that which is most remarkable is, that it appears by a Record of this Sentence of *Excommunication* still extant on the * Rolls, that the Commons were present, and acted in this Parliament; for it is there recited, 'That the King, the Great * Rot. Parl. 37. H. 3. M. 13. Men, and the *Communitas Populi*, do publickly protest, in the Dorf. printed in Mr. P's presence of the Archbishop, and of all the Bishops, being at this Rights of the Parliament, that if any thing be added or alter'd in the said Sen- Commons. tence, when reduc'd into Writing, they never gave their Consents P. 164. to it, but absolutely oppose and contradict it; and the conclusion is very remarkable too, that in Memory of this, and for a Testimony of the Truth, the King, as also the said Earls, have at the Instance of the other Great Men and People there present, put to their Seals.

Now, by the *Communitas Populi*, mention'd in the Body of this Instrument, as also by the words & *Populi*, put after *Magnates* at the end of it, I can understand no Others, than the Representatives of the Commons; for I do not find that the Tenants *in Capite* were ever stil'd the People in our Historians and Records: But since † Dr. B. in his Answer to Mr. P. will not allow, that by the *Communitas Populi* here, put after *Magnates*, is meant any Others than † B. A. P. Pag. 73. the Tenants *in Capite*, I shall give you the Sum of his Answer to it, for to set it down at length would be too tedious: First, He cites * *Matt. Paris*, that at this Parliament, which was held fifteen Days * Pag. 865. after *Easter*, the whole Nobility of *England* was assembled; now, who these were he proves thus; the same Author says, that upon the King's Confirmation of *Magna Charta* the Church granted the Tenth of their Revenues for three Years; and then there was granted by the *Knights* (or Nobility) for that Year, a *Scutage* of three Marks upon every Knight's Fee, and then was pronounc'd the *Excommunication* in the manner already mention'd, against all that should violate the *Great Charters*, which the * Doctor here supposes * Ibid. to be granted solely to the 'Archbishops, Bishops, and other Prelates of *England*, to the Earls, Barons, Knights, and Free-Tenants, 'by whom the Doctor only understands, Tenants by Military or 'Knight's Service, for they only were such as paid this *Scutage*, which 'was a kind of Composition with the King for *Magna Charta*: And 'the Doctor observes from this Relation of *Matt. Paris*, that all the 'Tem-

' Temporal Nobility are called in the Grant of the *Scutage*, *Milites*,
 ' Military Knights. And Secondly, He further collects, that besides
 the *Barones Majores* there came also to this Great Council or Par-
 liament the other Tenants *in Capite*, according to the Direction of
 King John's Charter, who were included in the words *Tota Nobili-
 tas*, and the other Tenants that held of them by Knight's Service,
 were bound by their *Asses*: From all which the * Doctor concludes,
 ' that by these words in this Record, *Dominus Rex & prædicti Mag-
 ' nates Omnes, & Communitas Populi protestantur publicè, &c.* no more
 ' are meant, but the King, and all the Great Men and Community of
 ' the People, that is, of the Community of the Laiety in general,
 ' who protested publickly, in the presence of all the Bishops; for
 ' since the Clergy and Laiety are often express'd and distinguish'd
 ' by *Clerus & Populus*, therefore that *Communitas Populi* does not
 ' here signify the Community of the Commons, but only the Com-
 ' munity or Body of the Laiety there present. But I shall now
 shew, that the Doctor is very much out in his Observations and
 Conclusions from this Relation in *Matt. Paris*, as also in his Inter-
 pretation of the words *Nobilitas* and *Communitas Populi*: First, As
 to the *tota Angliæ Nobilitas*, the Doctor does not make it out, that
 there were none but the Earls, Barons, and Tenants *in Capite* com-
 prehended under that Title, since the *Mesne-Tenants* by Knight's
 Service, as likewise all Men of Estates, tho' they held them by
Petyt-Sergeanty of the King, or in *Common Socage*, were reckon'd
 among the *Nobiles minores*, as I could prove from divers Instances;
 and that every Knight was reckon'd among the Great Men, appears
 † by a Prohibition of Edward the Second on Record, where any of
 the *Magnates Regni, viz.* any Earl, Baron, Knight, or Other notable
 Person, are forbid to go beyond Sea without the King's License;
 and consequently the Knights of Shires (whom I suppose to have
 been present at this Parliament) might be the *Milites* that gave this
Scutage; for that none but Tenants *in Capite* were at first capable
 of being elected is another Mistake of the Doctor's, which I shall
 confute in due time; but that the Inferior Tenants to the Tenants
in Capite were there reckon'd among the *Milites*, the * Doctor
 himself allows a little after, as appears by this Passage which he
 translates from Sir Henry Spelman's † Glossary; for the Name of Miles
 was not from the Military Girdle or Cincture by which Knights were
 created, but from the Military Fee which the Knight enjoy'd; from
 whence he was sometimes called a Free Tenant (to which the Doctor
 immediately adds) such as had Lands given them for, or such as held
 Lands by Military Service, and did Homage to those of whom they held
 their Lands; and in this sense *Matt. Paris* calls all the Temporal No-
 bility, *Milites*, when in the Parliament 37 of Henry the Third, he
 says, *à Militibus concessum est Scutagium, &c.* This is the very Par-
 liament the Doctor now treats of; and I shall leave it to the in-
 different Reader, whether by the words foregoing he does not
 take in all the inferior Tenants by Military Service among the *Mi-
 lites*, and consequently into the Body of the Nobility: I grant
 he is of another Opinion in the place above-cited, but if he will
 contradict himself I cannot help it; yet I must not here omit tak-
 ing notice of the disingenuity of the Doctor (to call it no worse)
 that

* *Ib.* p. 75.

† *Rot. Claus.*
3. Ed. 2. m. 16.

* *Ib.* p. 103.

† *Fol.* 73

that in his reciting in *Latin* all the Parties to whom these Charters were granted, he leaves out the words *Omnibus aliis de Regno* coming after *Militibus* with an *&c.* nor takes any notice at all of them in his Translation, whereby he would make his Readers believe, that none but the Persons there above-mention'd had any Interest in these Charters; whereas in the former Grants, not only the Military Tenants, but *all Others*, gave the King a Fifteenth of their Moveables; tho' the Doctor will not here allow even the former to have granted, but only paid this *Scutage*; whereas in this Author it is, *concessum est à Militibus Scutagium*, the word *concessum* being to be understood, tho' not expressed.

And if the word *Milites* in *Matt. Paris* must be taken in the Doctor's sense, it cannot extend to any more of the Laiety than he expressly mentions to have come to this Parliament, *viz.* the Earls and Barons, and consequently the other Tenants *in Capite* being no *Barons*, could not be reckon'd among them who were present there.

But to add somewhat more concerning the Doctor's sense of the *Communitas Populi*, which he will not have to signify the less Tenants *in Capite* (as one would suppose he should) but the *Community* of the Laiety in general; the reason is plain, for if the Representatives of the Commons came into the place of the Tenants *in Capite* (as the Doctor himself owns elsewhere) then by the same Rule, the words *Communitas Populi*, and the *Communitas Regni* (which are all one) must signify the same Order of Men in the Parliaments of the 49th of *Henry the Third*, and in all other succeeding Parliaments, which he will by no means admit: But to avoid this he falls into another as great an Absurdity; for tho' it is true that the word, *Populus*, when it is coupled with *Clerus* by the conjunction *Et*, signifies all the Laiety, yet it cannot, without a notorious Tautology, be taken in that sense in the Record now before us; for these words coming after *Omnes Magnates*, would then be needless, since if they comprehend all the Great Men or Lay-Nobility (whom the Doctor affirms to have been then the only Constituent Members of this Parliament) the following words, *viz. Et Communitas Populi* (in the Doctor's sense) would have been to no purpose at all, since the whole Community of the Laiety, as represented in this Parliament, was already expressed by the *Omnes Magnates*; and therefore it must certainly mean some other Body of Men distinct from the former; but whether the Tenants *in Capite*, or the Representatives of the Commons, shall be consider'd by and by.

But that the Bishops, Earls, and Barons, with the less Tenants *in Capite* did not then make the whole *Communitas Regni*, or Representative Body of the Kingdom, will further appear from the next Parliament held in the 38th Year of this King, which was summon'd during his Absence beyond Sea, by the Queen and Earl of *Cornwal* (then Regents of the Kingdom) to meet fifteen Days after *Easter*: At which tho' * *Matt. Paris* only mentions in general, that * *Pag. 887.* the *Magnates Regni* then assembled at *Westminster*, yet that two Knights out of every Shire were also summon'd to it, appears by a † Writ upon the Clause Roll of this Year, directed to the Sheriffs of *Bedford* and *Buckingham-Shires*, whereby, among other things,

† Rot. Clause
38. H. 3. m. 7.
printed
at large in
B. J. A. p. 212.

he is commanded, *To cause to appear before the King's Council, four legal and discreet Knights of the said Counties, whom those Counties should elect to this purpose, in the stead of all and singular Persons of the same, viz. two out of the one County, and two out of the other, to provide, together with the Knights of other Counties (whom the King had caused to be summoned to Parliament the same day) what Aid they would grant Him in so great a necessity, &c.* from whence it appears, that these Knights of Shires were sent up to this Parliament to grant the King an Aid for themselves and all others of those Counties; and therefore these could not be the Representatives of the less Tenants *in Capite* only. But since the Doctor * will by no means allow, that these Knights mention'd in this Record were summon'd to a Parliament, he therefore recites from *Matt. Paris* the whole Relation of the King's being then in *Gascoigne*, and his endeavours (in a former Parliament lately held) to get Money from the Barons on pretence of defending Himself against the King of *Castile*, who threatned to invade that Country; but all the Answer they had return'd thereupon was, *That they would, if there were occasion, come over to his Assistance with considerable Forces, three Weeks after Easter.*

* *Ib. p. 213.*

† *Ibid.*

The † Doctor here further takes notice, that there were some other Persons then summon'd by the Writ above-mention'd; for upon that Promise of the Earls and Barons, the Sheriff was to summon all who held twenty Pounds *per Annum* of Land *in Capite*, to be ready to go towards *Portsmouth* three Weeks after *Easter*. Then he recites from the same Writ, another Clause for the Sheriffs to summon the four Knights above-mention'd: After which there is also a third Clause to command the Sheriffs to levy and pay in all the King's Debts into the *Exchequer* by a certain day. From all which the Doctor concludes, that this was not a Summons to a general Council or Parliament, for the King had tried that before without Success; so that these Knights were neither summon'd *ad Tractatum vel Colloquium* (the usual words for Parliamentary Councils in those times) but only to appear before the King's Council to inform them what voluntary Aid each particular County would give the King in his great necessity, toward the defence of *Gascoigny*, against the intended Invasion of the King of *Castile*; which business and necessity (as appears by the Writ it self) the Sheriffs were diligently to set forth to these Knights, before they came up; from whence the Doctor concludes, that the *University* or general Body of the Kingdom in Great Councils or Parliaments, consisted of the Bishops, Earls, and Barons, as *Matt. Paris* sets forth.

Now to take off this Authority of his, I reply, that if there were no others present at the Parliament above-mention'd, then the Parties above-recited, the lowest degree of which were the Barons, it must follow, that the less Tenants *in Capite* (being no Barons) were not summon'd to it; and so this was no Council or Parliament at all, according to King *John's* Charter, but only an Assembly of the Bishops, Earls, and Barons; and consequently this Citation from *Matt. Paris* will not serve the Doctor's design; but if the Doctor's Friends will say, that the less Tenants *in Capite* might be there, notwithstanding they are not expressly mention'd, and may be comprehended

hended under the general Term of *Magnates Regni*, I may with as good Reason and Authority affirm, that the Knights of Shires also were comprehended under that Title; and from hence may also infer, that if so considerable a Body of Men as the less Tenants *in Capite* were then omitted to be mention'd by this Author, so might also the Representatives of the *Commons*.

But to come more closely to this matter, I shall now prove, that these Knights were really summon'd to a Council or Parliament, for the Doctor slyly passes it by without saying a Word, yet * *Matt. Paris* expressly mentions another Parliament to have met at * *P. 287.* London presently after *Easter*, where the *Magnates Angliæ* refused to grant the King any Aid, as He then desired; and the reason was, because they were inform'd that the King of *Castile's* Design to invade *Gascoigny* was off, a Peace being privately made between the King and Him; now to apply the above-cited Record to this Council, or Parliament, it plainly appears by the Day on which these Knights were to appear before the King's Council at *Westminster*, viz. the Quindene of *Easter*, that this was the very time when this Parliament was to meet. But by the way you are to take notice, that the King's Council here mention'd, before whom these Knights of Shires were to give in their Answer, what Aid they would grant the King for their respective Counties, were not the King's ordinary Privy Council, but his Council in Parliament, of whom I shall say more in another place: And that before this Council, not only the Knights of Shires, but also the Prelates, Earls and Barons (when summon'd to Parliament) were sometimes commanded to appear, and answer what Aid they would give the King in *Parliament*, appears from the Proceedings concerning the making Prince † *Edward* † *Inter Commun. brevia Scac. 34 Ed. 1. n. 4.* a Knight; and this Record the Doctor has printed in his *Appendix* to his Introduction, p. 32. by which it is evident that the Bishops, Earls, Barons and Knights, Citizens and Burgeßes, all appear'd before them, and there gave in their Answers, what Aid they would allow Him towards the Knighting his Eldest Son, as also for other great Expences He was at, for suppressing the Rebellion of *Robert Bruce*: And then the said Parties granted the King a Twentieth part of their Moveables, and the Citizens and Burgeßes a Twentieth. It is also very remarkable, that there is not any thing mention'd in this Record, whereby it may be gather'd, that this Summons was to a Parliament, and yet it appears by the * *Clause-Rolls* of 34 *Edward I.* that a Parliament was then summon'd; so that if we compare the Writs and Proceedings in both these Cases together, they will appear almost the same, the Knights of Shires in the Thirty eighth of *Henry the Third*, were summon'd to appear before the King's Council in Parliament, to make their Answer what Aid they would give the King for the Defence of *Gascoigny*, and in the Thirty fourth of *Edward the First*, the Knights were also summon'd to appear before the like Council, to treat about an Aid for the Ends above-mention'd. 'Tis true, in this last Writ these Words *Ordain* and *Treat* are expressed, tho' omitted in that of the Thirty eighth of *Henry the Third*, I suppose, by the Negligence of him that drew it up; but it must be understood, for how otherwise could they give in their Answers without *treating*, and tax themselves and the Coun-

Counties they represented, without *ordaining* the several Proportions then given : And tho' there are indeed other Clauses in this Writ, besides the summoning of these Knights, yet this might proceed from the haste the King's Clerks were then in, to save them the Trouble of writing and sealing so many different Writs.

Having now, I hope, render'd it more than probable, that the *Knights of Shires* mention'd in this Writ were summon'd to a Parliament properly so call'd, it will likewise here further shew the Doctor's Mistake in so positively asserting, that no *Knights of Shires* were summon'd thither before the Forty ninth of *Henry the Third*.

And as I have fully settled the true Meaning of the Term, *Universitas Regni*, to be the whole Body of the Kingdom, as represented by the Bishops, Temporal Lords, and Commons, so I shall proceed to explain the like Phrase of *Communitas Regni*, or *le Commun de la Terre*, as it is in *French*, that is, the Community or Body of the Kingdom, which we find so often mention'd in the Records of this time ; and to this purpose I shall produce some other Authorities, that have been likewise made use of by the * Doctor himself, which, I hope, I shall be able so to turn against him, as further to make out, that the Bishops, Lords, and Tenants *in Capite*, did not then make the *whole Community* or Representative Body in Parliament. The first Record to this purpose is to be found in the † Patent Rolls of the Forty second of this King, which is in the nature of a Declaration, beginning thus, ‘ *Rex Omnibus*, &c. wherein He recites, That having on the *Quindene* of *Easter* last past summon'd the Great Men, and Others his Liege-Subjects, for divers arduous Affairs, touching Himself and the Kingdom, and chiefly concerning the Prosecution of the Business of *Sicily*, which was then treated of, they then answered Him, that if He would establish the State of his Kingdom by the Advice of his Liege-Subjects, and that the Pope would better the Conditions concerning the matter of *Sicily*, by which they might prosecute that Business to effect, (the rest I shall give you in the Original *Latin*) *ipsi diligentiam fidelitèr apponent ergà Communitatem Regni nostri quod nobis Commune Auxilium ad hoc præstetur*, i. e. that then they would faithfully do their Endeavour with the *Community* of his Kingdom, that a Common Aid shou'd be given Him for this Purpose ; from whence you may observe, that taking the Words *Proceres* and *Fideles* in this Writ, in the Doctor's own Sense, the former for the Bishops and Lords, and the latter for the Tenants *in Capite*, who were called to this Great Council to consult about the Business of *Sicily*, (which the King had before too rashly accepted of for his Second Son *Edmund* from the Pope) yet tho' they were all met, they would do nothing, but give Him Advice, and could grant him no *Commune Auxilium*, i. e. Common Aids or Subsidies, without the Consent of the *Community* of the Kingdom.

Now what can this *Community* here signify, but all the Estates ? for all the great Lords and Tenants *in Capite* were met already, and if they alone had made up this *Whole Community*, or Body of the Kingdom, why could they not immediately have granted the King the Assistance He desir'd (if they had a sufficient Power so to do) without putting Him off with a Promise, that they would use their
Endea-

* B. A. 7.
p. 197.

† M. 10.

Endeavour with the *Community* of the Kingdom, (which implies a distinct Order or Body of Men not there present) that this Aid or Subsidy should be given Him another time, yet upon this condition, (as it is at the end of this Record) that the King promised them, He would amend the Estate of the Kingdom, *per Concilium Proborum & Fidelium Hominum suorum*, that is, by the Advice of his good and faithful Subjects.

So likewise in the next * Record of the same Year it appears, that the King not long after took an Oath, whereby He bound Himself to govern according as a Committee of Four and twenty *Fideles* or Faithful and Loyal Subjects should direct, twelve of which were to be chosen out of the King's Council, and the other twelve by the Great Men of the Kingdom; and in the Conclusion of this Record, there is a Clause of like Import with the former, reciting, that the Earls and Barons had promised the King, provided the Affairs above-mentioned were perform'd, that they would labour that a *Common Aid* should be granted Him by the *Community* of his Kingdom. This bears date the second of *May*; from whence we may observe, that this Promise had been altogether in vain, if the Earls and Barons alone had made the *Whole Community* of the Kingdom.

I come now to the Parliament held this Year at *Oxford*, in pursuance of the late Agreement, where the *Great* † *Men and Nobles* of the Land appear'd on *St. Barnabas* day, (our Eleventh of *July*) with all such as owed them Military Service; there with much struggling they at last obtain'd, that the whole Government of the Kingdom should be put into the hands of Four and twenty Persons, twelve of which were to be chosen by the King, and twelve others by the *Whole Community* of the Kingdom; and these were for the future to chuse the Chancellor, Justices, and other Officers, and also to have the Custody of the King's Castles: And that by the Words *Communitas Regni*, which the Author here makes use of, must be comprehended another Body of Men besides the Earls and Barons, appears by a * second Writ or Declaration of this King in *French*, (mentioned also by the Doctor) which was issued out not long after the Dissolution of this Parliament at *Oxford*, wherein is recited, that for the profit of his Realm, at the Request of his † *Great and Wise Men*, and of the *Community of his Kingdom*, the King had consented, that the twenty four Persons above named should have full power accordingly, and that whatever they ordain'd concerning the Estate of the Kingdom should be firm and valid: by which it is plain, that this Ordinance was not made by the *Great and Wise Men* in the Doctor's sense of the words, *viz.* the Earls and Barons only, but it had also the Consent of another Body of Men called in *French* *Comune de la terre*, *Community of the Kingdom*, who, I suppose, were the same with the *Commons* in Parliament at this Day.

But because * Doctor B. will not allow these Phrases to be understood in this Sense, but will have the *Latin Words*, *Communitas Regni*, and the *French*, *le Comun de la Terre*, to signify the whole Politick Body of the Kingdom, consisting of the Prelates, Earls and Barons, together with the less Tenants *in Capite*, (tho' oftentimes he omits them according as it will suit with the Record or other Quotation

* Printed at large in Dr. B's Append p. 189.

† Matt. West. ad hunc An.

* Rot. Pat. 42 H. 3. M. 4.

† Prædes & Hauz. Homes.

* Vid. Gloss. p. 27, 28, 29, 30.

Quotation he makes use of) and hath brought several Authorities from antient Records, and some from Historians, to shew, that these Expressions ought to be taken in that Sense he would put upon them, and no other : I shall therefore, for the satisfaction of my Reader, set down these Authorities of the Doctor, and then shew how egregiously he has wrested the true Sense and Meaning of the Words and Phrases above-mention'd.

But first I must acknowledge, these Terms, *Communitas Regni*, or as in *French*, *le Commune* or *Communalte de la Terre*, to have been often made use of in different Senses in our Records and Histories ; as for instance, I grant the Words *Communitas*, *le Comune* & *la Communalte*, when put alone, signify in the barbarous *Latin* and *French* of that Age, any Civil or Politick Body of Men ; but the determinate Sense of these Words is only to be understood from those with which they are joined in any History or Record : Thus *Communitas Regni*, and *le Comun de la Terre*, when put alone, signifie the whole Body of the Kingdom or Nation, consisting of all Degrees or Orders of Men, but when join'd with *Baronum*, it means the whole Body of the *Barons*, called also the Baronage of *England* ; and when the Word *Clerus* follows it in the Genitive Case, it signifies the whole Body of the *Clergy* both Superior and Inferior ; but where this *Communitas* is put before *Committatus* or *Committatum*, it then signifies the *Community* or Body of County or Counties, and by the *Communitates Civitatum* & *Burgorum*, are understood the *Commons* of Cities and *Boroughs* ; as appears by the Record of the 34th of *Edward I.* which I have already made use of, and is cited by the * Doctor in his *Glossary*.

* P. 34.

But he is so afraid of the Word *Commons*, lest his Reader should know that there were any such thing in the Parliaments of those times, that he will not use the Word, even then, when he allows them to have made a *Third Estate* of the Kingdom, as they did in this Thirty fourth Year of King *Edward*, of which I shall say more, before I have done with this Discourse : But to return to the matter in hand ; when the Words, *Communitas Regni*, are put after *Comites* and *Barones*, with the Conjunction *et* between them, they must then signify either a Different, or else a Larger Body of Men ; for otherwise these Words would be superfluous, and a vain Repetition of what was already exprest ; and it is from the misunderstanding and misapplying, or rather wresting the Sense of these Words, that the † Doctor hath fallen into such gross Mistakes, both in his Answer to Mr. *Petyt*, and also in his *Glossary*.

† B. A. P. p. 27
& de in. ad 35.

And now I come to lay before you the Summ of the Doctor's Arguments for this his Notion and Conceit : In the first place he cites that Passage in *Matt. Westminster*, which I have already made use of under the Year 1258, or Forty second of this King, when it was ordain'd in the Parliament at *Oxford*, that for the Reformation of the Kingdom, the King Himself should name Twelve Persons, and the whole *Community* of the Realm, Twelve more, who being supported by the Royal Authority, should undertake the Care of the whole Kingdom ; and, says the Doctor, it appears upon Record that this *Tota Terræ Communitas*, was the *Barones*, or *Proceres*, or *Magnates* only, which were the same : And for proof of this, he
quotes

quotes certain Letters * Patents of the Forty second of this King, ^{* Pat. 42 H} wherein it is recited, ' That He had granted *Proceribus & Magnatibus* ^{3. m. 10. pro} *Regni*, that the Kingdom should be reform'd by twelve Loyal or ^{Rege & Baro-} Faithful Persons to be chosen out of his Council, and by twelve ^{nagio} Others to be chosen by the said *Proceres* or Great Men, who should meet at *Oxon* at *Whitsontide* ensuing. In which the † Doctor makes † ^{lb. pag. 28} these Observations: *First*, That in the Margin of this Roll it is entered, *Pro Rege & Baronagio*, For the King and the Baronage. *Secondly*, The Persons to whom He made this Grant, *viz.* the *Proceres* and *Magnates Regni*, the Great Men of the Kingdom. *Thirdly*, The Persons who were to name the other Twelve by the King's Consent, were the *Ipsi Proceres*, the very same Great Men first mentioned. And *Lastly*, we see, that what the Record and the Historian deliver, was about the same business; so that upon the whole there can be no doubt, but that the *Tota Terræ Communitas* in the Historian, and the *Baronagium*, & *Proceres Regni* in the Record, were the same Persons. So far the Doctor.

To which Authorities and Records I shall return this brief Answer, that the Doctor is very much beside the Cushion in all these Inferences; for the Question still remains as it was before, who are meant by these words, the Barons or *Baronage* of *England*, and who are to be understood by the words *Proceres* and *Magnates*? for if the word *Barones*, mention'd by the Historian, are to be taken only for the Bishops, Earls, and Great Barons of the Kingdom, what will become of the Doctor's Tenants *in Capite*, who (whatever they might have been antiently) were now, and had been for some time before King *John's* Charter, not *Barons*, but meer *Commoners*? as * Mr. *Selden* has sufficiently proved in his *Titles of Honour*. But if ^{* Second Edit. p. 588.} the Doctor will have the words *Barones* and *Baronagium* to be taken in a larger signification, it may also include the Inferior Barons, or Lords of Mannors, who either might come in Person to this Parliament, or else have appear'd by their *Representatives* the Knights of Shires; and in either of these senses might be comprehended under the *Baronagium Angliæ*, as shall be more fully proved in another place, when we shall come to give an Account of the antient signification of those Terms.

But as for the *Magnates & Proceres*, with whom (as the Doctor observes) the King made that Agreement, concerning the choice of the four and twenty Persons to Govern and Reform the Realm; that more than Great Lords and Tenants *in Capite* might be comprehended under those words, appears from the Passage I have already cited out of *Knighton*, that King *Henry the Third* granted, *Magnatibus Terræ duas Chartas*, &c. by which certainly this Author meant, that all other Gentlemen of Estates had an equal Interest in them by vertue of that Grant, or else they would never have given the King a *Fifteenth* of all their Moveables; and that the word *Proceres* is of the like comprehensive Signification, you may find in *Wikes's Chronicle*, *ad An. 1264*, where speaking of the Parliament of the 49th of this King, (to which All agree the *Commons* were summon'd) he has these words, *Vicesimo die Nativitatis Dominicæ, facta* ^{Pag. 65,} *est apud London per Comitem Convocatio non minima Procerum Anglicorum*, i.e. on the 20th Day after our Lord's Nativity there was

held no small Assembly of the Chief Men of *England* by the Earl of *Leicester*: The Annals of *Waverly* call this *Magnum Parliamentum*, and *Matt. of Westminster*, *Magnus Tractatus de Pace*, i. e. a great Treaty concerning the Peace. The Inference I shall make from these Historians, is, that the first of them compris'd the *Commons* under the word *Proceres*, or else wholly passed them by; and the other two take no notice at all of this great Change, which certainly they would have done, had the summoning of the *Commons* been then a *new Institution*.

But admit I should grant the Doctor all that he could in reason desire, viz. that the word *Barones* in *Matt. Westminster* shall only signify the Barons properly so call'd, and that by the *Magnates* and *Proceres* in the following Record, shall be understood only the same sort of Persons with whom the King made that Agreement concerning the four and twenty Councillors; does it from thence follow, that because they were at that time the Chief Men in the Government, and made the greatest Figure, as being the largest Proprietors of the Lands of the Kingdom; that therefore no other Persons or Orders of Men had any thing to do in the granting of Taxes but themselves? what will then become of all the less Tenants *in Capite*, who, not being Barons, could no more be comprehended under that Title, than the Knights of Shires, or Barons of the Cinque-Ports? but if, to mend the Matter, the Doctor's Friends will alledge, that these Tenants are to be understood under the *Proceres* and *Magnates* mention'd in the Record now cited, I have already shewn, that under the former of these words, the *Commons* may be compris'd, as well as the Lords and Tenants *in Capite*; and that by the latter, the Knights of Shires, nay, the chief Citizens of *London*, *York*, &c. may be so also, I shall further make out hereafter.

But this will here likewise serve to Answer another very material Objection of * Dr. Brady's, who says, in the first Volume of his History, pag. 625, 627, 628, that by the Provisions of *Oxford* recited in the † Annals of *Burton*, it is ordain'd, that the four and twenty Persons above-mention'd (one half whereof were chosen by the King, and the other half by the Barons) should reform the State of the Kingdom; and to this end have power to appoint three Parliaments in the Year, which they did accordingly: Then the Community of the Kingdom being met in Parliament, chose twelve out of their Body to represent them in these Parliaments, to save the Cost or Charges of the Community, who, with the King's Council, were to treat for the whole Community of the Realm upon all Publick Business; whose Names (being all of Bishops, Earls, and Barons, and Great Tenants *in Capite*) the Doctor has there set down; as also the Names of the first Twenty four that made the Grand Committee, who were all of the same Order; from whence he infers, that the Bishops, Earls, and Barons alone, were then the whole Community of the Kingdom, because none but they were either the Electors, or the Persons *Elected* to represent the whole Body. But to this it may be reply'd, that if this Argument hold good, then the less Tenants *in Capite*, not being Barons, had nothing to do in this Election, since they were at that time meer *Commoners*, by the Doctor's own Confession; neither was any one of these Inferior

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* *Ib.* p. 416.

† *Pag.* 415.

Tenants chosen to be of the first Twenty four Reformers, nor of this Committee of Twelve chosen by the *Whole Community*; so that let the Doctor's Friends say what they can, if the Words *le Commune de la Terre* shall be here taken for no others but the Barons properly so called, then this could be no Parliament or Great Council, according to the Form of King *John's* Charter.

But I shall here shew the Doctor's Mistake; and that under these Words, *le Commune de la Terre*, another sort of Men, *viz. meer Commoners*, are comprehended; for it does not follow, that because none but Bishops, Earls, and Barons, were chosen to be of the Council of the Twenty four, and of the Twelve that were to represent the *Whole Community*, therefore none but those, of the same Order, were the Electors of those Twelve; for this *Community* who chose them to save the Cost and Charges of all the rest, as I have said before, appear to have been, by this very Circumstance, of a Quality much inferior to the Bishops, Earls, and Barons, for they were Men of ample Estates, and consequently the Governing-Party in Parliament; and therefore such a *Community* as the Doctor supposes, of all *Barons*, and great Tenants *in Capite*, and not one *Commoner*, wou'd never have given up all their Power of granting Taxes, and making Laws, into the Hands of those twelve, only to save Charges.

The next thing I shall take notice of, is a Letter written after this *Oxford* Parliament (cited by Mr. *Petyt* in his Rights of the Commons, and to be found in * *Matt. Paris*) from the *Community* of ^{*Additamenta fol. 217.} the Kingdom to the Pope, against *Adomar* Bishop Elect of *Winchester*, whereby it may be proved, that the *Community* consisted of *Others* besides the Earls and Barons; the Title of this Letter is, *Litteræ missæ à Communitate Angliæ Domino Papæ*; a Letter sent from the *Community* of England to the Lord the Pope, and the Direction thus, *Sanctissimo in Christo Patri, Alexandro, divinâ Providentiâ Sanctæ Universalis Ecclesiæ Summo Pontifici, Communitas Comitum, Procerum, Magnatum, Aliorumque Regni Angliæ, cum subjectione debitâ, Pedum Oscula Beatorum, &c.* which runs thus in English:

To the Most Holy Father in Christ, *Alexander*, by Divine Providence, Pope, or Great Bishop of the Universal Church, the *Community* of the Earls, Noblemen, Barons, Great Men and *Others* of the Kingdom of England, with due Subjection kiss your Blessed Feet, &c.

This Letter was seal'd, as the Record says, by ten of the said Committee of Twelve Persons, to whom the *Whole Power* of the Kingdom was committed, and were all Great Earls and Barons of the Kingdom, whose Names you may find in *Matt. Paris*, and not one Inferior Tenant *in Capite* among them.

From which Citation in the Author above-mention'd, † Dr. *B.* † *B. A. P. p. 81.* falls upon his Antagonist Mr. *P.* with these puzzling Questions; 'Did these Persons, all Great Earls and Barons, represent the *Whole Community* or *Communitie* of England, as at this day understood? Or did they represent the *Community* of the Barons only, together with the *Alios*, the *Milites*, which held by Military Service of the Great Barons, and the Less Tenants *in Capite*? For the *Whole Community*

‘ *munity* here intended, must be One of them : Let him fasten upon which he will, he must yield his Assertion; for certainly these Great Earls, and Barons, that sealed this Letter, *Vice totius Communitatis*, were neither chosen, nor sent by the *Commons* to this Parliament, or Meeting; nor were the *Commons* represented as at this day by them.

The Doctor farther insists upon the Pope’s Letter, in answer to the Petitions of the *Community* of *England* sent before to his Court, &c. which is directed thus, To our beloved Sons, the Noblemen, Counsellors of our most dear Son in Christ, the Illustrious King of *England*, and the other Noble and Great Men of the Kingdom of *England*, Greeting and Apostolical Benediction.

* Ibid. p. 82.

The * Doctor here undertakes to frame some Answers for Mr. P. such as he thinks fitting, which not being very much to the purpose, I shall try to mend them : As to the first *Query*, whether these Persons there named, being all Earls and Barons, did represent the *Commons* or *Community*, as at this day understood? To which I answer, Yes; that these Lords, being only a Committee of Parliament, might as well represent all the *Commons* as now understood, as they did the *Alios*, the *Milites*, who held by *Military Service* of the Great Barons, and the *Less Tenants* in *Capite*, which the Doctor himself thereby allows to be part of this *Community*; and then sure it did not consist of Earls and Barons only, (as he has before asserted) so that if they represented those, who by his own Confession were no Barons, and who then made far the greatest part of the Doctor’s *Community*, I desire his Friends to tell me, Why these Great Earls and Barons might not also represent all the rest of the *Commons* of *England*, as at this day understood? and therefore his Conclusion, that the Earls and Barons who seal’d this Letter on the behalf of the whole *Community*, were not chosen by the *Commons*, nor were they represented as at this day, is very precarious.

† Rot. Claus.
42 H. 3. m. 15.
n. 40.
See it printed
with the Translation,
in the Append. to
Vol. II of the
General History
of England.

But that the *Communitas Regni*, or *le Commune de la Terre*, whom this Committee of Earls and Barons must certainly represent, consisted of more than the Earls, Barons, and Tenants in *Capite*, may farther appear by that Writ or Proclamation in Old *English*, which is to be found upon the † Roll of this Year, and was first published by Mr. Somner in his *Saxon Dictionary*, intitled *Unnan*, the Contents of which are, to confirm and reinforce whatsoever the Great Men or Counsellors, chosen by the King Himself and the *Loandesfolk* (as it is in the Old *English*) People of the Land had done, or shall do; now tho’ by this Word *Loandesfolk*, I will not affirm the *Commons* alone are to be understood, any more than by the *Latin* Translation of it, where it is render’d *à Gentis Plebe*, and in *French*, *par le Commune de la Terre*; yet that the *Loandesfolk*, or People of the Land, must signify some Others besides Great Lords and Tenants in *Capite*, appears from the Comprehensiveness of the Word it self. And further, that this *la Commune* or *Gentis Plebs*, were a larger body of Men than the Council of *Twenty four*, or Committee of *Twelve* above-mentioned, is made still more evident

Preface to the
Scottish Hist.
Library, p. 26,
27.

by the just Remark of that Learned Prelate, (the now Lord Bishop of *Carlisle*, in these Words, ‘ I see the Bishop of *Worcester*, the Earls of *Leicester*, *Glocester*, *Warwick*, &c. (who were all Mem- bers

bers of that Council) are named as Witnesses to it ; and, to my Apprehension, it looks a little incongruous that a Grant should be attested by those very Persons to whom it is made. For these Reasons I am yet of Opinion that this same *Saxon* Record is faultless, both in the Original and Translation ; that it was given and granted to the use and behoof of those Members of Parliament, who were chosen by the *Commons* of *England*, and that it as undeniably proves them to be of a more antient standing than the 49th *Hen. III.*

But as for his Observation concerning the Pope's Answer to the Barons Letter, being directed only to the Noblemen, Counsellors; and other Great Men of *England*, and not to the *Whole Community*, there is no great difficulty to reply to that ; for since the Pope very well knew, that the *Whole Power* of the Parliament was now lodged in the *Four and twenty* Great Men above-mention'd, it was needless for Him to direct his Letter to any Other, because they only were to receive, and return an Answer to it, if there were Occasion.

And that by the *Community* of *England*, must be understood a larger body of Men than Doctor B. will allow of, will still more evidently appear by a remarkable Passage out of the * *Annals of Burton*, under the Year 1259, being the Forty third of this King, and the Year after the Parliament that was held at *Oxon*, whilst the Power of this Committee of Lords, Barons and Counsellors still continued : The Passage I shall here faithfully translate ; ' The Festival of St. *Edward* the Confessor being Royally celebrated by the King at *Westminster*, the † *Community* of the *Bachelary* of *England* † *Communitas Bachelaria* declared to the Lord *Edward* the King's Son, the Earl of *Gloucester*, and the other Persons sworn at *Oxford*, that the King had done, and fulfilled all things which the *Barons* had provided and imposed upon Him to be perform'd, and that the *Barons* had acted nothing as they had promised for the Benefit of the *Common-Weal*, but only for their own private Profit, and to the damage of the King in every particular ; and that unless there were a Reformation of it, other means shou'd be used to make good their Agreement ; whereupon the Lord *Edward* presently answered for Himself, that tho' He had unwillingly taken an Oath at *Oxford*, yet however He shou'd be ready of his own accord to discharge, and to venture his Life for the *Community* of *England*, and for the Profit of the *Common-Weal*, according to what He had there sworn ; and then He particularly declar'd to the * *Barons* sworn of the † *Council*, that unless they fulfill'd their said Oath, He would stand by the *Community* till death, and make them to perform what they had promised : At length the *Barons* perceiving that it was better to have their Promises perform'd by themselves than by Others, agreed to what He proposed, and held another Assembly or Parliament at *Michaelmas* following.

And it seems this Remonstrance had so good an Effect upon them, that this Committee of the *Twenty four* being again assembled, they made and published certain Laws or Provisions that follow in these *Annals*, the Title of which being translated out of *French*; runs thus :

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These are the Provisions and Establishments made at the Parliament at Westminster, at the Feast of St. Michael, by the King and his Council, and the Twelve elected by the Common Council of the Kingdom; after which follow these remarkable Words in French, Pardevant le Communauté d' Engleterre que adunk fu a Westminster le an del Regne Henry le fiz le Rei Jehan quarantieme Terz, i. e. before the Community of England, which was then at Westminster in the Forty third Year of the Reign of Henry the Son of King John.

From whence we may observe, that notwithstanding the late Ordinance which transferr'd the *Whole Power* of the Parliament to these *Four and twenty* Persons, yet the *Community of England* (by which I understand the *Bachelary* or *Commons* of it) were present at this Parliament; and tho' they might not then make Laws, (which seems to have been the Business of the *Four and twenty* above-mention'd) yet their Province might still be to represent the Publick Grievances of the Nation; as appears by this their Remonstrance, upon which the above-mention'd Provisions were enacted.

And that by this *Community* of the *Bachelary* of England, who remonstrated against the unfair Proceedings of the Barons, (and were also present at this Parliament) not the Tenants *in Capite* alone, but also meer *Commoners* are to be understood, will appear by comparing this Passage in the Annals with another Transaction mention'd by *Wikes's Chronicle* in the Year 1264, wherein it is related, that a great many of the ordinary People of several Cities and Towns taking up Arms, (and calling themselves by the Name of the *Batchelary*) ran up and down, and did much prejudice to the better sort of Citizens and Townsmen: I do not cite this, as if these were any other than the meer ordinary People, or *Mobb* and *Rabble* (as we now call them) but only to shew, that these to imitate their Betters call'd themselves by the same name; and *Matt. Paris* under the Year 1249, speaks of a great Torneament at *Brackley*, where many of those *Knights of the University of the Kingdom*, who will be called *Bachelors*, were slain; so likewise in the * *Patent-Rolls* of *Richard II.* He immediatly after his Coronation appointed certain Persons to be of his Council, viz. two Earls, two Barons, two *Bannerets*, and four *Bachelors*: Now these last were as certainly *Knights Bachelors*, as the other were *Knights Bannerets*; and to make it yet more evident, it appears, that the *Knights of Shires* and *Burgeses*, are called in the *French Instrument* of the Deposition of this King, which then passed in Parliament, the *Bachelors* and *Commons* of the Land, and are reckoned as a distinct Estate: And even at this day we know, that a Knight Bachelor is the lowest Order of *Knighthood* proper to what is called the less Nobility, viz. *Knights* and *Gentlemen*.

From what hath been already said, I think we may draw this Conclusion, that this *Community* of the *Bachelary* was looked upon in the Reign of *Henry the Third*, as part of the Civil Body of the Kingdom, but yet were not Tenants *in Capite*; and therefore must be such *Knights* and *Gentlemen*, who holding of other Lords besides the King, came up to this Solemnity of the Feast of *St. Edward*, and were also present at the ensuing Parliament: And that these *Inferior Tenants* made a considerable Figure in the Government in those

* Rot. Pat. 1.
Rich. II. p. 2.
m. 16.

those Times, appears by these Passages out of * *Bracton*, where reckoning up all the principal Lay-Orders and Degrees of Men in Christian Kingdoms, he says thus, *Sunt Duces, Comites, Barones, Magnates sive Vavassores, & Milites, & etiam Liberi Homines, & Villani, & diversæ Potestates sub Rege Constitutæ*, i. e. There are Dukes, Earls, Barons, and Great Men, or *Vavassors*, and Knights, and also Freeman, and Inhabitants of Towns, and divers Powers, or Magistrates appointed under the King; and a little lower (speaking of England in particular) *sunt & alii Potentes sub Rege, qui dicuntur Barones, hoc est, Robor Belli; sunt & alii qui dicuntur Vavassores, Viri magnæ Dignitatis*, i. e. there are other Persons under the King, called *Barons*, as also Others called *Vavassors*, Men of great Dignity. Now that by these last are always understood not Tenants of the King *in Capite*, but of Bishops, Abbots, and other Mesne Lords, see Sir Henry Spelman and Du Fresne, their *Glossaries* under that Title; and that these were the Persons that then made this *Bachelery* of England, mention'd in the Annals above-cited, I think we have no reason to question, after all that has been said on this Head.

Near six Years having been spent in Disputes and Quarrels between this King and the Barons, about his not observing the *Provisions* made at Oxford, they were at last for a time decided by the Battel of Lewes, where the King, his Brother the Earl of Cornwall, and their Sons, were all made Prisoners.

The King being under the Power of Simon Montfort, the Head of the Baron's Faction, was forced by him to call a Parliament to be held at Westminster eight Days after Trinity-Sunday, or two and twentieth of June, being the Forty eighth Year of this King, A. D. 1264, to which (besides the Bishops, Earls, and Barons, particularly summon'd) there were also four Knights to be return'd by the *Conservators* of each County, according to the Writs or Commissions above-mention'd: When this Parliament was thus Assembled, they agreed upon an Instrument, which is on Record, and enter'd under this * Title, which I shall put into English.

This is the Form of the Peace unanimously approved of by our Lord the King, and the Lord Edward his Son, and all the Prelates, and Barons, together with the whole Community of the Kingdom of England: it is thus, That a certain Ordinance was made in the Parliament held at London, about the Feast of St. John Baptist last past, for preserving the Peace of the Kingdom, until such time as a Peace between the said Lord the King, and the Barons at Lewes, according to the Form of a certain Mife or Agreement, should be fully concluded. From which we may observe, that not only the Bishops, Earls, and Barons, but the four Knights return'd for each County, now made the *Community* of the Kingdom.

But since Dr. Brady doth all he can to prove, that this *Community* of the Kingdom here mention'd, did not comprehend the *Community* of the Commons, but only of the Prelates and Barons, I shall give you his * Argument, which he draws from certain Passages out of this Ordinance, whereby it was appointed that three Persons should be chosen, who should have Power and Authority from the King to choose, or name Nine Counsellors, Three whereof should always

* Rot. Pat. 48.

H. 3. m. 6.

Dors. See it

at large in

Dr. B's. Ap-

pendix to his

1st Vol. of

Compleat

Hist. N. 213.

* B. G. p. 29.

always be with the King ; and He by their Advice, should order and dispose of the Government of his Castles and Forts, and all other Business of the Kingdom ; and also by the same Advice should choose his Judges, Chancellor, Treasurer, and other Officers great and small, either of the Court or Kingdom ; and when any of these Nine were to be removed, and others chosen, it was to be done by the Advice of the first three Electors ; *Et si videatur Communitati Prelatorum & Baronum Concorditer expedire, &c.* and if it should seem expedient to the Community of the Prelates and Barons, to have all, or one of the three first nominated or elected removed, and others put in their places, *Dominus Rex per Consilium Communitatis Prelatorum & Baronum, alium vel alios substituat*, the King was to substitute another or others by the Counsel of the Community of the Prelates and Barons. And to confirm this, the Doctor cites Matthew of Westminster, who (he supposes) makes it more plain, what the *Tota Communitas Regni*, the whole Community of the Kingdom was, which made this Ordinance : *Convenientibus Londini, Prelatis, Comitibus & Baronibus partis illius, quæ Regem suum tam Seditiosè tenuit Captivatum, Compromissi Lewensis immemores, &c. Statuentes, quod duo Comites & unus Episcopus* (which were the Earls of Leiceſter and Gloceſter, and Bishop of Chicheſter) *ex parte ipsius Communitatis electi, novem personas eligerent*, i. e. (ſays he) the Prelates, Earls, and Barons of that Party, who ſeditiouſly kept the King in Priſon, met at London, and unmindful of the compromise at Lewes, determin'd, that two Earls and one Biſhop, to be choſen on behalf of, or by that Community, ſhould chooſe Nine, &c. we ſee, he ſays further, that the *Tota Communitas Regni Angliæ*, in the Preamble to the Ordinance upon Record, was the ſame with the Community in the Hiſtorian, and were the Community of Prelates, Earls, and Barons, &c.

I think there may be no great difficulty in answering this forced Interpretation, concerning the Community of England, if we conſider, in the firſt place, the Title to this Form of Agreement, which is ſaid to be made, *by the King, the Prelates and Great Men, with the whole Community of the Kingdom* ; which laſt words would be a vain repetition, if they comprehended no more than thoſe that went before ; and therefore, tho' it be there ordained, that the Nine Councillors above-mention'd, were to be choſen by the Advice of the Three firſt Electors ; and that if it ſhould ſeem expedient to the Community of the Prelates, Earls, and Barons, to remove any three of the firſt Electors, &c. the King was to ſubſtitute others in their places by the Council of the Community of the Prelates and Barons, yet this makes nothing to the Matter before us ; for the Community of the Prelates and Barons here mention'd, is a different Body from the *Tota Communitas Angliæ* ; this ſignifying the whole Body of the Commons, diſtinct from the Biſhops and Lords, and the other the Committee of Prelates and Barons, which conſiſted of Nine Perſons, who were to remove any of the three firſt Electors, and nominate others in their places ; and this appears by the next words following, in this Form or Ordinance, *viz. Omnia autem prædicta Dominus Rex faciet per Concilium prædictorum Novem in formâ ſubſcriptâ, vel Ipsi, vice & auctoritate Domini Regis*, i. e. but all the

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Matters aforegoing, the King shall perform by the Council of the aforesaid Nine, or they themselves shall do it on the behalf, and by the Authority of our Lord the King.

If the Doctor would have been pleas'd to have added these words to what went before, it would have hinder'd any body from confounding (as he doth) this small Body of Prelates and Barons with the *Community* of the whole Kingdom: And then, after this, it will be very easy to answer the Authority of *Matt. Westminster*; and his not mentioning any Others to have met at *London*, besides the Prelates, Earls, and Barons may be easily accounted for, since imitating *Matt. Paris*, he only recites the most considerable Members or Estates who met at this Parliament; and if this Author's Expressions should be so taken as to exclude all others, besides the Orders above-mention'd, what will become of the Doctor's beloved Tenants *in Capite*, who being no Barons could have no place in this Parliament? And here I cannot but observe the Doctor's unfair translation of these words, *Ipsius Communitatis*, in this Author, which he renders, *of that Community*, viz. of Prelates and Barons mention'd a little before; whereas there is in this Author a *Full-Stop* instead of a *Coma*, after the word *Captivatum*; and the next Sentence begins with *ex parte ipsius Communitatis electi*, i. e. there were elected on the behalf of the Community it self Nine Barons, tho' the Doctor to conceal this falacy stops at the word *Nine*, with an *&c.*

And further, this Writer's Inconstancy, and how he can have this *Community* of the Kingdom to consist either of fewer or more Members, according to the History or Record he is to make use of, will appear by a *French* * Record, which he cites immediately before this Form of the Peace here mention'd; where, for redressing the Grievances of Holy Church, and the Injuries done to her in the time of the late Troubles, three Bishops were to be chosen *per commun-assentment du Roy, & des Prelats, des Countes, & des Barons de la Terre*; by the common assent of the King, and of the Prelates, Earls, and Barons of the Land, to whom, *soit done plein poer du Roy, e de le Communante des Countes & des Barons, & des Grauntz Homes de la Terre*, should be given full Power from the King, and the Community of the Earls and Barons, and of the Great Men of the Land, to provide and order things necessary and profitable for the full Reformation of the state of Holy Church, to the Honour of God, and the Faith of the Lord the King, and the profit of the Realm; *Eceo soit promis en bon foi par le Roy, & par les Contes e les avandits Barons & par les autres Grauntz Homes de la Terre*; and so it was faithfully promised by the King, and by the Earls, and the foresaid Barons, and other Great Men of the Land. Now (says he) the other Great Men of the Land were great Tenants *in Capite*, that were actually neither Earls nor Barons; and these altogether are here esteemed part of the *Community* of the Land, as well as they are called the Earls, Barons, and Great Men of the same; and by putting the chief part of the Tenants *in Capite* for the whole, are oftentimes called the *Community* of the Land, or Kingdom.

Here you see, by the Doctor's own Confession, not only the Prelates and Barons, but the less Tenants *in Capite*, who were neither

* Rot. Pat. 48.
Hen. 3. m. 2.
Dors. n. 14.
Ib. p. 28.

Earls, nor Barons, made up the *Community* of the Kingdom, and consequently the Prelates and Barons did not constitute it alone, as he confidently asserts in the very same Page; but if these Tenants *in Capite* were no Barons, I will leave it to the Doctor's Friends to consider, whether there were not *Commons* in Parliament a Year before the 49th of *Henry the Third*, unless they can shew me, that these Tenants *in Capite* were a third sort of People, who were neither Lords nor Commons. But to say somewhat more to the Record it self (part of which he hath here cited) it appears, that notwithstanding the three Bishops that are said to be chosen by the Prelates, Earls, and Barons, yet they could not have full Power of acting without the consent of other Great Men of the Realm, as appears by the Record it self; and therefore this *Community* of the Earls and Barons alone, could not be the *whole Community* of the Kingdom, without the *Grantz Homes de la Terre* here mention'd, whom tho' he will have to signify the Body of the Tenants *in Capite*, yet, notwithstanding his positiveness, I may with more reason asser, that these Great Men here mention'd, were the *Knights of Shire*, call'd *Grantz des Counties*, or Great Men of the Counties, in divers Parliament-Rolls, which the Doctor himself acknowledges in another place; only * there affirms, that, *without doubt*, they were most commonly the greatest Tenants *in Capite*, under the degree of Barons, in each County; the Truth of which Assertion shall be consider'd in another place: but at present it is sufficient to shew, that these *Great Men* mentioned after the Barons in this Record, as here cited by the Doctor, were not the Tenants *in Capite*, but the four Knights, that were return'd to this Parliament by the Conservators of the Kingdom, and were *without doubt* chosen and empower'd by their respective Counties, tho' (the Writs of Summons being now lost) it cannot be from thence so fully made out, as otherwise it might.

But the next Parliament held in the Forty ninth Year of this King will evidently clear up this matter, and shew us who then made up this *Community* of the Kingdom: For *Simon Montfort* having (as I have said before) got the King in his Power, issued out Writs in his Name, for a Parliament to meet at *Westminster*, on the Octaves of St, *Hilary* (or twenty second of *January*) next ensuing; by which were summon'd, not only the * Archbishops, Bishops, Earls and Barons, but almost all the Abbots and Priors of *England*; and besides these, other Writs of Summons were also sent to the Sheriffs of the Counties to elect and return two *Knights* for each Shire and two *Citizens*, and as many *Burgeses* for each City and Borough of *England*, and for each of the *Cinque-Ports* as many Barons, as appear still upon † Record in the *Tower*, which is likewise taken notice of by the Writer of the * *Annals of the City of London*; only he mistakes in the number of the Knights of Shires, making them to have been four instead of two, and the like he does in the number of the Citizens, *Burgeses* and Barons of *Cinque-Ports*, that were summon'd.

This Parliament was chiefly call'd to deliver the Prince out of Prison upon certain Conditions, and to cause him, when at liberty, to join with the King his Father to confirm what had been done by the Parliament the Year before; and then they agreed upon a new † Form of Peace concluded on between the King and his Barons,

* B. A. J.
Pag. 214.

* Rot. Claus.
49 H. 3. m. 11.
Printed in
Dr. Brady's
Answer to Mr.
Petyt, p. 137.

† Ib. in Scedula printed,
p. 140.
* Liber Antiq. de Legibus London.
in the Office of
the present
Town-Clerk.

† Rot. Cart.
49 H. 3. M. 5.

rons, which is printed at large in Dr. B's *Appendix*, n. 6. in which, after a Recital of the late Agreement made at *London*, by the Prelates and Great Men of the Land, in *June* the Year before, which is in *Latin*, the rest of this Instrument goes on in *French*, and is to this effect: *And that this Order may be the better observed, our Lord the King shall command and enjoin, and the Lord Edward assent and require, as hanz homes, & au Comun de la Terre*, i. e. the Great Men and Commons of the Realm, by their Letters Patents, which were to remain in each County, that this Ordinance shall be firmly observed: And a little lower it follows thus; *and if our Lord the King, or Lord Monsier Edward shall act against the Peace of the aforesaid Ordinance, or shall injure the Earls of Leicester, or Gloucester, or any of their Party, by reason of the aforesaid Actions, that then the Great Men and* * Commons of the Land shall be against them, to resist them to the utmost of their Power, and shall disobey them in all things, as if they were not at all bound to them, until such time as these things shall be amended, redressed, and observed, according to the Form of the Ordinance of the Peace aforesaid: And a Line or two lower it goes on thus; and our Lord the King, and Monsier Edward have sworn upon the Holy Evangelists, and the Great Men and Commons of the Kingdom do swear, by the Commandment of our Lord the King, and by the Assent, and at the Request of Monsier Edward, and by their Letters Patents, that our Lord the King and Monsier Edward, and all the Great Men, (the rest being difficult and obscure to translate, I shall give it you in *French*) *de qi len les vodra aver endeiront ices choses a fere e a tenir si com il est avandit*: These Passages, I think, are sufficient to shew, that the Commons or Community of the Realm, here mention'd after the Great Men, were not the Community of the Tenants *in Capite* in this Parliament, but the Community of the Knights, Citizens and Burgeesses, who were now summon'd to it, as the * Doctor himself acknowledges, instead of the less Tenants *in Capite*.

* Le Comune
de la Terre.

* B. A. P.
Pag. 143.

This being, I hope, made clear enough, I shall in the next place shew you how confidently and grossly the Doctor can impose upon his Readers; he hath in his * *Glossary* given us the Title to this Instrument of the Form of the Peace between the King and the Barons, which I shall here translate; *The Ordinance which was provided at London by the Common Accord of the Prelates and Great Men of the Realm, who were there in the Month of June, in the Forty eighth Year of the King, shall be firmly observed and maintain'd in the Form as follows, &c.* by this Record (says the Doctor) it is plain, that the *Tota Communitas Regni Angliæ*, the whole Community of the Kingdom of England, by whose Common Accord this Ordinance was made at *London* in the Month of *June* preceding, in the Forty eighth Year of *Henry the Third*, were the Prelates and the *Hanz Homes*, that is, the Great Men of the Land, or Men of High Condition; hitherto the Prelates, Earls, and Barons, or the Prelates and Great Men, or the Prelates and *Hanz Homes*, Men of High Condition, have by Record and History both appeared to be the Community of the Kingdom.

I must animadvert upon this Observation of the Doctor's, and desire his Friends (if they please) to answer for him, why in the beginning of this Record by the Prelates and Great Men must be

understood only Earls, Barons, &c. and Men of *High Condition*? when it is plainly manifest, by the subsequent part of it, that in this present Parliament, the *Representatives* of the *Commons* made a part of the *Community* of the Kingdom, tho' he is not willing to take any notice of it.

But to shew you this Gentleman's Sincerity, he hath here recited the first Clause, (which I have translated) and has render'd *Le Comun de la Terre*, the *Commons of the Land*; but then speaking of those Letters Patents that were to remain in every County, he hath this Remark, *viz.* In one of these Letters-Patents, or Charts, sent into *York-shire*, it is evident, that the Prelates, Earls, Barons, and *Community* of the Kingdom signified the same thing, or that the *Community* of the Kingdom signified very little, if any thing, as to the transacting of Publick Affairs in those Days: and then he gives us at large a Copy of one of the Writs in *Latin*, which was sent down into the County of *York*, wherein it is recited, that by the unanimous consent of the King, and of the Lord *Edward* his Eldest Son, and of the Prelates, Earls, Barons, and *Community* of the Kingdom, and for the Peace and Security thereof, the Lord *Edward*, and *Henry* Son to the King of the *Romans* had been deliver'd as Hostages; wherefore it is there provided, that a certain Ordinance made in the 28th Year of this King's Reign, by the Prelates, &c. (*viz.* all the rest of the Parties above-mention'd) shall be inviolably observ'd: Upon which the Doctor thus learnedly Paraphrases; here the Prelates, Earls, and Barons must be the same with the Prelates, Earls, Barons abovemention'd, and the *Commons* of the Kingdom had nothing to do in making the Ordinance at *London* in the Month of *June*, concerning the state of the Kingdom; and yet in the Preamble of it 'tis said they had.

I suppose the Doctor was here sensible, tho' he doth not shew it, that the *Commons* were now summon'd to this Parliament, or else he would never have so far debased this *Community* of the Kingdom, as to affirm, ' That they signified very little, if any thing, as to the transacting Publick Affairs in those Days, whereas but in the * Leaf before (speaking of the less Tenants *in Capite*) he calls them the Other Great Men of the Land, that were neither Earls nor Barons, and who altogether made part of the *Community* of it: And in the same place adds further, ' That putting the chief part of the Tenants *in Capite* for the whole Body of them, these are oftentimes called the *Community* of it: So that you see sometimes the whole Body, and sometimes but a part of it are sufficient (according to the Doctor's Notions) to constitute the *whole Community* or Representative of the Kingdom in Parliament.

But why the *Knights*, *Citizens*, and *Burgessees*, (whom he grants in another † place to have come to the Parliament in the 49th of *Henry the Third*) should not have the same Power as the less Tenants *in Capite*, in whose room they came, I can see no reason, especially since he also asserts but a few * Pages further, that they were summon'd by *Simon Montfort*, to curb the too great Power of the Nobility and Tenants *in Capite*, occasion'd by the large Retinues they brought along with them to the Parliament at *Oxford*. Thus the Doctor can advance or debase the Authority of his less Tenants

* *Ib.* p. 29.

† *B. A. P.*
pag. 136.

* *Ib.* p. 143.

in Capite, according as he thinks it will serve his present purpose.

But he is somewhat hard put to it in his last Observation upon this Writ above-mention'd; for since the words *Communitas Regni* happen to be there omitted, he therefore will not allow, that the *Community* even of his less Tenants *in Capite* had any thing to do in making the Ordinance of the Month of *June* precedent; and I suppose it was for this Reason, because he was aware, if he should allow, that the less Tenants *in Capite* (who were meer *Commoners*) had any hand in making the former Ordinance, in that Parliament of the 48th of *Henry the Third*, then it would follow, that the *Representatives* of the *Commons*, who, as part of the *Community*, confirm'd the aforesaid Ordinance in the 49th Year of this King, might have also had something to do in other Parliaments before that time.

And therefore, the more to perplex this Matter, he recites the Clause I have already translated, *whereby the King, the Lord Edward his Son, and the Great Men and Commons of the Land, swore to observe the aforesaid Ordinance*; but the Doctor did not think fit to render these words into *English*, for then it would have appear'd, that the *Commons*, as well as the *Lords*, took this Oath, and consequently that those words were not a meer *Chimera* or vain Repetition, without any signification, as the Doctor will have them to be; and therefore, after a recital of what Punishment those were to undergo, who should act contrary to this Form of the Peace, he tells us, the next words in this same Record are, *E ceste chose est firme-ment establi par le Roy, Munsr Edward, e par le Comun de la Terre*: And this was firmly establish'd by the King, and Monsieur *Edward*, and by the *Commons* of the Land, as if they only made this Establishment. Can any Man imagine, that the Prelates, Earls, and Barons were not present, and consenting to the making of this part of the Form of Peace? 'Tis said in the * Charters, or Letters-Pat-
* Rot. Cart. 49. Hen. 3.
 ents, directed to the County of *Middlesex*, that for the observati-
 on of both, by the unanimous consent of King *Henry*, and Prince *Edward* his Son, and the Earls, Barons, and *Community* of the Realm, it is ordain'd, that those that act against this Statute shall be disinherited, &c. And in the Margin over-against the words *Commun de la Terre* he hath this Note. In this place the *Community of the Land* signifies the *Bishops, Earls, Barons, and Great Men, or these* Establishments were made without them, which is a contradiction to both these Records: And then he concludes, So we see that in this part of the Record, *Le Comun de la Terre*, or the *Community* of the Land comprehended the Prelates, Earls, and Barons, and in other parts of it, the Prelates, Earls, and Barons, were mention'd as the *Community* of the Land. In answer to this, I need but observe how much the Doctor can contradict and vary from himself in two pages; for whereas * he before acknowledges that the Inferior Te-
* Pag. 101
 nants *in Capite* were part of the *Community* of the Kingdom in Parliament, now only the Prelates, Earls, and Barons must have any thing to do in it; and this proceeds either from his own Ignorant or perverse Mistake of the words, *E par le Comun de la Terre*, which he renders by the *Commons* of the Land, and then asks a puzzling Question, whether the Prelates, Earls, and Barons were not present and consenting to the making this Form of Peace? which no body denies,

* Rot. Cart.
49 H. 3. m. 4.
See it printed
at large in
the Append.
to the Gen.
Hist. of Engl.
pag. 34.

denies, but by the *Comun de la Terre* here mention'd, is not to be understood the *Commons* of the Land, nor yet the Earls, Barons, and Great Men, according to his false Gloss in the Margin; but the *Community* or Politick Body of the whole Kingdom in Parliament, as represented by the Prelates, Earls, Barons, with the *Knights, Citizens, and Burgeſſes* for the *Commons*, who made a part of the *Community* of the Kingdom when this Form of Peace was made, as appears by the date of it being seal'd in the Parliament at *Westminster* by the Parties there mention'd, on the eighth Day of *March* 1264, being the 49th Year of King *Henry the Third*, tho' it be not there express'd; for this Parliament had began to sit on the 22d of *January*, and was not Dissolved till the middle of *March*, as appears by the * Charter of Pardon which was passed by this King to the Barons and Others of *Montfort's* Party, bearing date at *Westminster* the 14th of *March*, in the 49th of his Reign; in which also there is this remarkable Clause; and further it is unanimously provided by Our (that is the King's) Assent and Will, and that of our Son Edward the Prince, the Prelates, Earls, and Barons, and the Community of our Kingdom, that the Antient Charters of Common Liberties and of Forests, already confirm'd to the Community of our Kingdom, by Our Selves and the Pope, as also all Articles already granted by our Own, and by the common Assent of the Great Men of the Kingdom, shall be inviolably held and observed: Which Passage evidently clears the distinction I have already made between the *Communitas Regni*, when coming after *Comites* and *Barones*, and the same words when put alone; for in the first sense it signifies the *Community*, or *le Comun de la Terre*, that is, the *Commons* of the Kingdom, and in the other, the whole Civil Body of it, to whom these Charters were granted. And, to conclude this Head, it is manifest, that the Doctor's confounding of these two Phrases, has lead him into these (I doubt) wilful Mistakes; for had he acquainted his Readers, that the *Commons* had been summon'd this time to Parliament, it would have saved him the trouble of Writing, and his Readers of perusing two or three Pages to no purpose; yet since he is resolved not to leave off so, but will have his Tenants *in Capite* to make the whole *Community* of the Kingdom, long after the time wherein he must allow the *Knights* of *Shires*, and *Citizens*, and *Burgeſſes*, to have been constantly summon'd to all Parliaments, I shall go on with him a Page further, and give you the rest of his Authorities for this Opinion.

B. G. p. 32.

The first is a Writ from *Pat. Roll* of 30 *Edw. I. m. I.* which I shall render in *English*, and refer you to the Doctor for the *Latin* of it: 'The King to the Archbishops, Bishops, Earls, Barons, Knights, and all Others of the County of *Kent*, Greeting, know ye, that on the first Day of *June*, in the 18th Year of our Reign, the Prelates, Earls, Barons, and the rest of the Great Men of our Kingdom, by one Assent, for themselves and the whole *Community* of the same Kingdom, granted unto Us in full Parliament, forty Shillings of every Knight's Fee in the said Kingdom, for an Aid to marry Our eldest Daughter, &c. which Aid We have hitherto graciously forbore to levy for the ease of the said *Community*, &c. By this Record it is very clear, that such as paid *Scutage*, that is, 'forty

‘ forty Shillings for a Knight’s Fee, were the *Tota Regni Communitas*, and no Others : And of these, the Tenants *in Capite* granted, and paid it first for themselves and Tenants, and then their Tenants in Military Service, by vertue of the King’s Precept, paid it to them, for so many Fees as they held of them, as hath been sufficiently evinced by Record in the Answer to Mr. Petyt, Fol. 121.

I will not deny, but that the Doctor may have truly transcribed this Writ, and yet for all that, it is not true, that the Prelates, Earls and Barons, and all Tenants *in Capite* of the County of Kent, were then in a strict Sense the *whole Community* of the Kingdom, since there were a vast number of Others that were a part of this *Community*, and that did not hold *in Capite* : And no County can be a better Instance of this than the County of Kent, where above two parts of three held in *Gavelkind*, which every one knows, was *Socage-Tenure* ; and therefore by the Words *All Others* of the County of Kent, in this Writ mentioned, must not only be understood of all such as held *in Capite* : And so likewise, that by the *whole Community* of the Kingdom, cannot be meant only the *Community* of the Tenants *in Capite* ; but that these Tenants first paid it for themselves and their Under-Tenants : Tho’ the * Doctor supposes, and endeavours to prove in his Answer to Mr. Petyt, that at the Parliament held in the Eighteenth Year of this King, the *Knights of Shires* were not summon’d ; yet that this is a great Mistake, I hope I shall be able to prove, when I come to consider his Arguments.

But that the Tenants *in Capite* did not make the *whole Community* of the Kingdom during this King’s Reign, appears by the second Record cited by the * Doctor from the *Exchequer* ; by which it is plain, that the King summon’d a Parliament in the Thirty fourth Year of his Reign, to meet on the Morrow of the *Holy Trinity* about an Aid for making his Son a Knight, and assisting Him against Robert Bruce, who was up in Arms with considerable Forces in Scotland ; and the Prelates, Earls, Barons, and other Great Men, as also the Knights of Shires, treating together, with deliberation upon this matter, considering the Aid that was due, and the Burthen that lay upon the King by reason of the *Scotch War*, at length unanimously granted Him for themselves and the *whole Community* of the Kingdom, a *Thirtieth* part of all their Moveables, for making his Son a Knight, and toward the Expences of his War in Scotland ; and then the Citizens and Burgeses, and other Tenants of the King’s antient Demesns, being assembled together, and treating about the Premisses, granted to the King a *Twentieth* part of their Moveables.

Here the Prelates, Earls, Barons, and Great Men, with the Knights of Shires consulted together, and gave for themselves and the *whole Community* of the Kingdom, a *Thirtieth* part of their Goods ; and the Citizens, Burgeses and Tenants of the King’s Demesns, which were none of the *Community* of the Kingdom, gave a *Twentieth* part ; for if they had been of the *Community*, they had paid no more than a *Thirtieth* part : And therefore ’tis most certain, at this time they were not taken to be part of the *Community* of the Kingdom, unless they paid both a *Twentieth* and a *Thirtieth* part of their Goods, and that the Tenants *in Capite*, or at least the Military Men and Tenants in Military Service, were only such.

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The Doctor could not have brought a better Record than this, to have confuted the Falsity of his Notion, that the Tenants *in Capite* made the *whole Community* of the Kingdom, in the 34th Year of Edward I. and therefore I shall only ask those of the Doctor's Opinion, whether those Persons that paid a *Thirtieth* part of their Goods towards this Tax above-mention'd, were All Tenants *in Capite* ? if they say, Yes, then it will follow, that none but Tenants by *Knight's Service* could pay it, for their Lords the Tenants *in Capite* could not give Taxes for those who did not hold of them ; but if they say, No, which is the Truth, then neither the Tenants *in Capite*, nor those by *Military Service*, (as the Doctor qualifies it at the end of this Paragraph) could alone make the *Community* of the Kingdom, since all Tenants by *Petyt Seirjeanty* and *Soccage-Tenure* must be likewise included in this Grant, and must therefore make a part of the *Community*, or Civil Body of the Kingdom. And tho' in his Marginal Note upon these *Knights of Shires*, sitting and treating with the Earls and Barons, concerning the granting of this Aid, the Doctor says it was, because they were of the same Order, that is, Tenants *in Capite* ; this is a meer Conceit of his own, as I shall shew hereafter ; and therefore I shall only observe at present, that these *Knights of Shires* could not grant this Tax upon Moveables, for themselves and the *whole Community* of the Kingdom, as they were Tenants *in Capite*, but as they were the *Representatives* of the Freeholders of the whole County, by whatsoever Tenure they held. As for the other part of the Doctor's Argument, that the *Citizens* and *Burgeses*, with the King's Tenants in *antient Demesne*, gave by themselves a *Twentieth* part of their Moveables, when all the rest of the People paid but a *Thirtieth*, and therefore they were not then part of the *Community* of the Kingdom ; I allow that these were not in that Record reckon'd as part of this *Community*, and the Reason might be, because this *Community* of the Kingdom, extending strictly to no Others, than those who were a part of the *Community* of the *Commons* of Counties, the Cities and Boroughs being then (as now) separate Bodies from the Counties, and enjoying distinct Priviledges in sending their own Members to represent them in Parliament, were therefore in that Sense no part of the *Community* of the Kingdom ; yet as they paid a very considerable share in all Taxes to the Government, which were granted by their *Representatives*, they were certainly in a larger acceptation a part of the *Community*, or Politick Body of the Nation.

* Vid. Dr. B's
Append. Record 7. printed there at large.

† B. G. p. 33.

And this is also made out and confirm'd by another * Record of the Thirty fifth of this King, (which is also cited by the † Doctor) being a Writ for the collecting of this *Twentieth* and *Thirtieth* part, directed to the *Knights, Freemen*, and the *whole Community* of the County of *Middlesex*, reciting, that the Archbishops, Bishops, Abbots, Priors, Earls, *Knights, Freemen*, and the *Community* of the said County had kindly granted the *Thirtieth* part of all their Moveable Goods ; and the *Citizens*, and *Burgeses*, and *Communities* of Cities and Boroughs of the same Kingdom, as also the Tenants of his *Antient Demesne*, had granted a *Twentieth* part of their Moveables, &c. from whence we may observe, that as the People of the Counties in general are here called *Communitas Comitatum*,

Constitutum, so those of the Cities and Boroughs are called the *Communities* or *Commons* of those places, and certainly then, these *separate Communities* must make a part of the *General Community* or *Civil Body* of the Kingdom.

Since we have now settled the true meaning of the words, *Communitas Regni*, or *Le Comun de la Terre*, and proved, that it always comprehends, and sometimes signifies the *Commons of England*, only as represented by *Knights, Citizens, and Burgeses* in Parliament, I shall next proceed to shew, that the same Expressions are to be understood in a like sense throughout the rest of King *Henry the Third's* Reign, as also that of his Son King *Edward*; which brings me to the second Head I undertook to treat of, that from the 49th of *Henry the Third*, to the 18th of *Edward the First*, inclusively, the *Commons* were represented in Parliament by *Knights, Citizens, and Burgeses*, in the same manner as they are at this Day; but seeing the Writs of Summons to those Assemblies, as well to the Bishops and Temporal Lords, as to the *Commons*, from the 49th of *Henry the Third*, to the 23d of *Edward the First*, are long since lost, it is in vain to go about to prove, from such Records, that there were any Parliaments at all; and therefore we must have recourse, for the discovery of this Matter, to the Titles of Statutes, the Patent-Rolls in the *Tower*, and the concurrent Histories and Chronicles of those times.

I shall begin with the Statute of *Marlbridge*, made *A. D. 1267*, being the 52d Year of *Henry the Third*, which Statute has this Title before it, *Convocatis Discretioribus ejusdem Regni, tam de Majoribus, quam de Minoribus ita provisum est, & Statutum, i. e.* there being summon'd the most discreet or wise Men of the Kingdom, as well of the Great as Less sort, it is provided and ordain'd, &c. where by the less sort of Men, I understand the *Commons*, put by way of distinction from the Lords; and this seems to be so worded, in imitation of the *Saxon Great Councils*, commonly stiled *Wittena-Gemots*, i. e. Assemblies of the *Wise Men*; but since Dr. *Brady* has endeavour'd to make out, that at this Parliament, not all the Barons of *England* were summon'd, but only some of the wiser sort, whom the King was pleas'd to call; I will defer the further consideration of that Matter, till I come to examine the Doctor's Arguments.

In the next Year, viz. * 1268, being the 53d of this King, *Tho.* T. W. Wikes* tells us, a Parliament met at *Westminster*, at the Feast of *St. Edward* (or third of *October*) for the removal of his Relicks, and placing them in a richer Shrine; his words, as far as concerns the Matter in Question, are as follow, * *Convocatis Universis Angliæ Prelatis & Magnatibus, necnon cunctarum Regni sui Civitatum pariter, & Burgorum Potentioribus, i. e.* All the Prelates and Great Men of *England*, as also the principal or richest Men of the Cities and Boroughs of his Kingdom, being summon'd or call'd together, besides a great crowd of ordinary People who flock'd thither: After the Solemnity of this Translation was over, the Noblemen began, according to their custom, to treat in Parliament about the Affairs of the Kingdom; and, in conclusion, there was a Tax granted by the Laity towards Prince *Edward's* Expedition to the *Holy Land*. * Edit. Oxon. Pag. 88.

And for a further confirmation of this, there are found in the Patent Rolls of this Year, two several *French* Charters of Pardon, which certainly were likewise granted in this Parliament; the

* Rot. Pat.
53 H.3. M.16.

* first of which recites, that the King, by the Advice and Consent of his Brother, the King of the *Romans*, as also of the *Earls, Barons, and Le Commune de la Terre*, i. e. the *Commons of the Kingdom*, pardons the Earl of *Glocester* and his Adherents, all Treasons, &c. The second is on the same Roll, whereby the King, with the Advice of all the same Parties last mention'd, remits to the City of *London* all Rancour and Ill-will; from whence we may observe, that at this Parliament the *Commons* are again expressed by the *French* Phrase, *Le Comun de la Terre*, which we may very well translate (as well as *Communitas Regni*) the *Commonalty* or *Commons* of the Realm.

* Dr. Wake's
State of the
Church and
Clergy.
pag. 212.

Dr. Brady takes no notice at all of this Parliament, in his History; a late Learned Writer (who too implicitly has follow'd the Doctor's Opinions) has undertaken to prove, that the Citizens and Burgessees were not then summon'd to Parliament: I shall first set down his Objections.

He indeed allows the Quotation to be as I have given it, yet says, that what *Wikes* relates imperfectly, the *Annals of Waverly* more fully distinguish, when they tell us, that in order to this Solemnity, a Convention or Assembly was held of the Bishops, Earls, Barons, Abbots, Priors, and *Many Others*. Now it is observable, (says the Doctor) that the first Author only says, *That the Translation being over, the Nobles treated, and gave the King the Twentieth part abovemention'd*; so that here is a distinct Account of the Translation, and of the Parliament; to the One a great Company of People flock'd together, and so were present at it with the Prelates and Great Men; but in the Other none but the *Nobiles, Majores Regni, Prelati, Proceres & Magnates*; and then the Doctor falls upon his Antagonist for making a false and delusory Representation of this Meeting. But, I doubt, upon Examination it will be found, that the former of these Doctor's is mistaken in the sense he puts upon this Quotation; and I shall leave it to the indifferent Reader to consider, whether there is no difference to be made in this first Author's Relation, between the *Citizens* and *Burgessees* being here said to be summon'd or call'd together, as well as the Bishops, Earls, and Great Men, and the ordinary Sort or Common People, who flock'd thither only to gaze; or can any one believe it was worth the King's while to summon up the Chief Citizens and Burgessees from all the Cities or Boronghs of *England*, and to put them to the expence of so long a Journey, only to see a *Show*? I suppose no Man will say, this was suitable to the Methods of those frugal Times, unless the King had other business with them, and what other Business could there be, besides their granting the *Twentieth* part of all their Moveable Goods? 'Tis true, this Author mentions, that after this Solemnity was over, the *Nobles* treated of the Affairs of the Kingdom; which might be, and yet the Citizens and Burgessees who were not taken into such Consultations, might give their Consents to the granting this Aid: And as for these *Nobiles* it is most likely, that by the *Magnates* mention'd in the *Annals of Waverly*, the

Knights

Knights of Shires, called in the *French Records Grantz des Counteers*, were then reckon'd among the *Nobiles-minores*. But to satisfy the Doctor, that this Tax was really given by the *Commons*, as well as by the Bishops and Temporal Lords, I desire he would once more consider the words of the *Waverly-Annalist*, who calls this Parliament an Assembly, not only of all the Parties above-mention'd, but adds, & *multorum Aliorum*; and be pleas'd to tell us, who were these many Others, put after the Barons, unless the *Commons* as now understood? If it should be answer'd, they were the less Tenants *in Capite*; to that it may be reply'd, that this is only *gratis dictum*, and it is more likely to be the *Commons*, for they were call'd to Parliament in the 49th Year of this King; and it does not yet appear, (but rather the contrary) that they were ever omitted being summon'd after that time. But to make this Point past dispute, the Doctor may please to take notice of a * Writ on the Patent Rolls of this very Year, directed to certain Commissioners to levy this Tax of a *Twentieth* part upon Moveables in *Dorsetshire*, wherein it is thus recited, *Cum occasione vicesime nobis in subsidium Terræ Sanctæ concessæ tam à Magnatibus & Militibus, quàm aliis Laicis hominibus de Bladis*, &c. This bears date the 14th of December after this Grant was made, with which the antient * Manuscript-Annals of the City of London agree, and very well explain, who are meant by the *Aliis Laicis Hominibus*, and say expressly, *That in this Parliament all the Freemen of England, as also of the Cities and Boroughs granted to the King a Twentieth part of all their Moveable Goods*, that is, they did it by their Representatives, the *Knights, Citizens, and Burgeses*, as Doctor Brady has very well explain'd it in his Glossary, concerning a like Aid granted to King Edward the First, in the 34th Year of his Reign.

* Rot. Pat. 54.
H. 3. m. 16.
printed in the
Append. to
the Gen. Hist.
of Engl. p. 36.

* Lib. de Legibus Ant. ad hunc An.

In the following Year, viz. 1270, on the Monday after Easter, the same City-Annals tell us, *That the Bishops, Earls, Barons, Knights, and Freeholders of the whole Realm, were assembled in Parliament at Westminster by the King's Writs, and there they treated of divers Matters relating to the State of the Nation; but they were chiefly taken up in the reconciling Differences between Prince Edward and the Earl of Gloucester.*

The same Annals further mention another Parliament held at Winchester about Midsummer following, when the King took his Cross (by which He stood still engaged to undertake the *Crusado*) and deliver'd it to the Prince his Son, which was confirm'd by the Suffrages of all there present, as appears by the * Patent or Commission granted by the King to the Prince not long after for that purpose, wherein it is recited, *That tho' He was desirous to go (together with his Son) for the Relief of the Holy Land, yet because it seemed to the Prelates, Great Men, and Commonalty of the Kingdom to be neither expedient nor safe for Himself and his Son to be both absent at once, therefore He committed this Affair to the Prince alone.* This bears date at Westminster the fourth of August. Dr. Brady cites this Record, and will have the words *Communitatem Regni* here, to signify only the Community of Tenants *in Capite*, but I think I may with much better Authority affirm, that it here signifies the Community or Body of the *Commons*, as they were represented in

* Rot. Pat. 54.
H. 3. m. 7.
Introd. printed
in Dr. Brady's
Append. to
Vol. II. of his
History, &c.
pag. 242.

the 49th Year of this King, as well as in several other Parliaments since that time ; and I can see no reason why it should not have the same signification in this, unless the meaning of Words and Phrases in Records must alter, when ever it makes for the Doctor's *Hypothesis* to have it so.

Thus I have gone through all the Great Councils or Parliaments held during the long Reign of *Henry the Third*, wherein I could find any mention of the *Representatives* of the *Commons* as now understood ; and therefore shall now proceed to that of his Son King *Edward the First*, and prove, that they continued to be so represented from the very beginning, to the eighteenth Year of his Reign ; and were it not for the unreasonable Conceits of Dr. *Brady*, and those of his Opinion, this ungrateful Task might very well be spar'd ; for if the *Commons* are prov'd to have been summon'd to Parliament during all the rest of the then late King's Reign, after the 49th, I can see no reason why they should not continue to be so likewise in this ; yet prejudices, either from Humour, Education, or too much relying upon the Authorities of Others, have made some learned Persons to embrace such false Notions, as that the *Commons*, after the Battel of *Evesham*, were left off being summon'd any more till the eighteenth of King *Edward the First*.

I am indeed sensible, that the loss of the Writs of Summons to Parliament, both to the Lords and Commons, from the 49th of *Henry the Third*, to the twenty third Year of his Son's Reign, as also the general Words, in which some of the Titles to his Statutes of the beginning of his Reign are penn'd ; together with the silence of *Matt. Westminster*, and some other Historians, who have written this King's Life and Actions concerning the *Commons* being present in Parliament, and barely calling it Parliament, without any particular recital of the Constituent Members of it, have given Dr. *Brady* some occasion to believe, that they were not summon'd again till the Fiftieth Year of this King ; however, I hope I shall from the Titles to certain Statutes, as well as from other Records and Historians, prove, that the Doctor was mistaken, and has lead divers well-meaning Men into the same Error.

I shall begin with the First of this King's Reign we are now treating of ; and here we find, that not long after the Nobility had met at the *New-Temple, London*, to recognize and swear Allegiance to Him, the Conservators or Regents of the Kingdom, summon'd a Convention or Great Council of all the Estates at *Westminster*. *Thomas Walsingham* indeed takes no notice of this Meeting, but *Wikes's Chronicle*, and the *Annals of the Church of Worcester*, which were both written in this King's Time, give us a large Account of it, almost in the same words, which I shall faithfully translate as follows ; ' The Guardian's of the Kingdom having summon'd all the Estates thereof to meet at *Westminster*, there Assembled the Archbishops, Bishops, Earls, Barons, Abbots, Priors, as also four *Knights* for each County, and four *Citizens* out of each City, and did all in the presence of the Lords, *William Archbishop of York*, *Robert de Mortimer*, and *R. Burnel*, Clerk, take an Oath to the Lord *Edward*, as King of this Land, as also firmly and truly to keep the Peace of the Kingdom.

This

This Great Council or Convention, as I said, is not mention'd by *Walsingham*, tho' it is by *Matt. Westminster*, but he barely says in general, without naming any particular Degrees or Orders of Men, that the *Nobiliores Regni* were summon'd to it : Now under this Title we often find, not only the higher Nobility, but the *Commons* to be comprehended ; which also shews, that the Arguments brought by Mr. Pryn and Dr. Brady, from *Matt. Paris* and this Author, for their only mentioning the *Nobilitas* or *Nobiles Regni*, to be summon'd to divers Parliaments in the Reign of *Henry the Third*, are no Proofs that the *Commons*, as well as the Bishops and Temporal Lords were not comprehended under that Title, which I shall prove more at large by and by, when I come to answer the Doctor's Arguments.

The * Reverend Author of *the State of the Church* will not allow ^{P. 216.} these four Knights to be any other than Tenants *in Capite*, whom this Convention of Nobles thought fit to call, to secure the Right of the King, and Peace of the Kingdom ; and therefore will not give it the Name of a Parliament, but only of a *Convocation*, as the Annals of *Waverly* call it : I shall not dispute about Words with him, but that it was a Great Council of the Kingdom assembled upon an extraordinary Occasion, tho' after an unusual manner, is very certain, for *Matt. Paris* calls it a *Council*, as I have already noted ; and since the Doctor has thought fit to ask his Antagonist several Questions about these *Representatives* of Counties and Cities, I will set them down, and make bold to answer them on his behalf, till he is at leisure to do it himself : First, the Doctor asks, if this were a Parliament, how the *City-Representatives* came to be called *Knights*, and not by their proper Term of *Citizens* ? Secondly, how the *Boroughs* came to be forgotten ?

To the first of these Queries I answer thus, that there is no necessity of construing this word *Quatuor* here set alone without a Substantive, by four Knights ; for who can suppose so many Knights, or considerable Tenants *in Capite*, to have been in every City of *England*, especially in the smaller ones, such as *Litchfield*, *Hereford*, *Worcester*, &c. and that in the first Year of this King's Reign ? Therefore I do believe, that the best way to Solve this Difficulty, is, to suppose the Word, *Cives*, to be here either left out by the negligence of the Transcribers, or else to be understood according to the Subject (*viz.* the *Cities* who sent those Members) of which these Authors are treating ; since none can imagine, that all the *Cities* of *England* could afford four Knights apiece. And as to his second Query, I think it may be answer'd thus, that this being no formal Parliament to give Money, or enact Laws, the Regents of the Kingdom might think it not worth while to summon the *Burgeses* of all the *Boroughs* in *England* to come up to this Assembly, only to recognize and swear Allegiance to the King ; and yet that they might be summon'd to Parliaments properly so called, when any General Aid was to be given, especially upon all Moveable Goods, in which Grants they were particularly concern'd. But now I desire I may take my turn, and ask the Doctor a few Questions concerning his Assertions ; as in the first place, how he knows or can prove these *Milites* to have been the King's Tenants *in Capite*, under the

the Degree of Barons, and only call'd up by the *Nobiles*, and not chosen by their particular Counties? *2dly*. If they were so call'd up, how without any Election, they could represent any Body, but themselves? *3dly*. As to these City-Members, whom he will have likewise to be Knights, (and I suppose Tenants *in Capite* as well as the former) how he can make it out that there were Tenants *in Capite* in all the Cities in England, since several of them never held of the King at all, but of Bishops or Great Lords, as I have already shewn? now if the Doctor pleases to give us a full Answer to these few *Queries*, he may perhaps find himself under greater Difficulties, than Mr. A. or I can be in answering those he has there put.

However I shall make no other Use of this Great Council or Convention, but leave it to the Judgment of the indifferent Reader, whether it be at all probable, that if all the less Tenants *in Capite* had been summon'd to all Parliaments held in the Reign of the late King, (the last of which was but three Years before his Decease) that at this Council held during the new King's Absence, when Affairs were as yet unsettled, the Guardians of the Kingdom should presume to exclude almost all these Tenants *in Capite* from the Great Council above-mention'd, and summon'd no more than four of them, out of each County, to represent all the rest? but if these Knights were chosen in the County-Courts by all the Suitors to it, (as it is most likely they were) then there is no necessity to suppose them to have been all Tenants *in Capite* any more than they are now; there being no Clause in the Writs of the Forty ninth of Henry the Third, or in any other part of the Reign we are now treating of, that directs they shall be Tenants *in Capite*: And that the contrary was practis'd, I shall prove hereafter. In the mean while I shall return to the History of the Parliaments of this Reign. Presently after the King's return, *viz.* in the Year 1274, he summon'd his Parliament at *Westminster*, the * Title of which runs thus: *These are the Establishments of King Edward, the Son of King Henry, made at Westminster, at the first General Parliament after his Coronation, on the morrow of the close of Easter, in the third Year of his Reign, by his Council, and by the Assent of the Archbishops, Bishops, Abbots, Priors, Earls, Barons, and the whole Commonalty of the Land, thither summon'd.*

* *Vid.* Rastal's
Statutes.

In the French,
toute la Communalte de la
Terre.

† B. A. P.
p. 146.

Dr. † B. in his Paraphrase upon this Statute, according to his usual manner, supposes, by the *Commonalty* of the Land, is to be understood, the less Barons or Tenants *in Capite*; 'tis true, that the Writs of Summons to this Parliament are lost, which gives the Doctor this Confidence; but since I have already proved, that by the Words *le Commun* and *Comunitas*, &c. are to be understood the *Commons* as represented by *Knights, Citizens* and *Burgesses* in Parliament, and that they were also summon'd to the last Great Council; I cannot see any reason why these Words *et toute la Communalte de la Terre* should not have the same signification, as the like French and Latin Terms in the last King's Reign: But the most express Authority that we have to bring against the Doctor's Opinion, and to prove that the *Knights, Citizens, and Burgesses* were actually summon'd to Parliaments, or Great Councils of the Kingdom, within the first eighteen Years of this King's Reign, wherein he supposes them to have

have been excluded, appears from *Thomas Walsingham* and other Historians, and those sufficiently confirm'd by a Writ of Summons to a Parliament at *Shrewsbury*, in the eleventh Year of this King, (for so our Historians call it) wherein *David*, Brother to Prince *Llewellyn*, was sentenc'd to be drawn, hang'd, and quarter'd, by all the Temporal Estates of the Kingdom.

But before I come to the matter it self, I shall for the better understanding of this remarkable Transaction, give you the precedent part of this History, which is thus: It appears by a Writ of the 11th of King * *Edward I.* to the Archbishop of *Canterbury*, acquainting him with the Rebellion of *Llewellyn* Prince of *Wales*, that He (the said King) *de Concilio Prelatorum, Procerum, & Magnatum Regni, necnon totius Communitatis ejusdem*, (which can mean nothing less than a Parliament) had resolved to put an end to this *Welsh* Rebellion; so that it seems this War had been concluded on at the Parliament held the Year before, which was here mention'd in this Record; and which that Valiant and Fortunate Prince effectually put an end to, by the total subduing of *Wales*, and the killing of *Llewellyn*, whose Head was cut off, and sent to *London*; the Particulars whereof are related by *Knighton*, as well as other Historians, at large; and also that presently after *David*, the Brother of this *Llewellyn*, (the Cause of all these Mischiefs) was in *magno Parlamento apud Shrewsbury*, condemned, and afterwards drawn, hang'd and quarter'd.

* *Rot. Wallie*
m. 2. Dorso.
See it at large
in the *Append.*

Walsingham is indeed more short in the Relation of this Parliament, and only says, that in the Eleventh of *Edward I.* *habitu est Parliamentum apud Salopiam*, in which this *David* was condemned and executed; but *Thomas Wikes*, who lived at this very time, in his Chronicle, will better instruct us, than either *Walsingham* or *Knighton*, and his Account of this Parliament is as follows.

† *Circa Festum Sancti Michaelis Rex convocari fecit apud Salopeshariam Majores Regni sui, & Sapientiores tam de Civibus, quam de Magnatibus, & fecit illuc adduci David, qui apud Rothelan fuerat Captivatus, ut super exigentiam Delicti sui, Corporale subiret Judicium, &c.* and then relates particularly the manner of his Execution; from which Passage we may observe, that this Author makes it plain, who were the *Communitas Regni* mention'd in the former Record of the Eleventh of this King; and who constituted this Great Parliament at *Shrewsbury*, viz. the *Majores* and *Magnates Regni*, which last, as I have often said, takes in the *Knights of Shires*, and the best of the *Citizens* in Parliament.

† *T. W. ad An.*
1282. but it
is a Mistake.
for indeed it
was 1283.
P. III.
*Quod morte
quasi varia in-
teriret, primo
Equis distra-
ctus, secundo
suspensus, ter-
tio decollatus,
&c.*

* But all this is confirm'd beyond Dispute from the same *Welsh* Roll, in which there is enter'd at large a long Writ of this 11th Year of *Edward I.* whereby all the Earls and Barons of the Kingdom are summon'd to meet the King at a *Colloquy* or Parliament, to be held at *Shrewsbury* the morrow after *Michaelmas-day*; and there is on the same Roll a second Writ directed to several Cities and Boroughs, for electing *two Citizens*, and *two Burgeses*, to this Parliament, with a void space to insert more Names, had the Clerks thought fit to enter them; and also a third Writ is directed to the Sheriffs of every County of *England*, to cause to be chosen *two Knights pro Communitate ejusdem Comitatus*; and lastly, there is a fourth

* *Rot. Wallie*
Ibid.

fourth Writ directed to the Justices and Others of the King's learned Council, with the same Preambles to each of them, being commanded to appear at the same time and place: The chief Business of all these Summons was about that Traytor *David*, and they met accordingly, and agreed upon that Judgment as is already mention'd.

This Record was discover'd by Mr. *Petyt*, the present Keeper of the Records in the *Tower*, not long after he came into that Office; but whether Dr. *Brady* ever found it or not, I cannot affirm; but thus much is certain, that it did not well become him to be so confident in a false Opinion, before he had search'd the Records that were in his keeping, and seen whether there was not sufficient Evidence to prove he was mistaken.

But to deal ingeniously, I have heard from some of the Doctor's Friends, that he was not convinced by this Authority; because he said, it was not a true Parliament, but only a Colloquy or Treaty with the *Earls* and *Barons*, and *Knights* of *Shires*, with some of the *Citizens* and *Burgeffes*, concerning what was to be done with this *David*; and besides it doth not appear by these Writs above cited, that the Bishops or any of the Clergy were summon'd to be there; so that if this were no Parliament, they will have his Assertion to be still true, that the *Commons* were not summon'd to Parliament from the Forty ninth of *Henry the Third*, to the Eighteenth of this King.

Having given you all I know which can be objected by the Doctor, or his Friends, against this Parliament at *Shrewsbury*, I shall now consider the Force of this Objection; first then, I have all the Historians on my side, who call this a Parliament; and certainly it doth as well deserve this Title, as that at *Salisbury* in the Twenty fifth Year of this King, which was held *excluso Clero*, as you will find in the preceding History under that Year; and this was done by the King's sole Prerogative. But the true Reason, why the Bishops and Abbots were not summon'd to this Parliament, was, because the Business they met about was to pass Sentence upon this Prince *David*, which being a matter of Blood, all Ecclesiastical Persons were forbid to meddle therewith, as appears by the Constitutions of *Clarendon*, which you may find in the Reign of *Henry the Second*.

But to comply with the Doctor's Opinion as far as is possible; suppose we should admit at present, that this Assembly at *Shrewsbury* was no true Parliament, but only a Colloquy or Treaty, held by the King with the *Earls*, *Barons*, and *Commons* of the Kingdom, to give their Judgments in a particular Case; yet however, it cannot be denied, but that it was a *Great Council* of the Kingdom: And then can any Man imagine, that the King should think it worth his while to summon the *Knights*, *Citizens*, and *Burgeffes*, to such a Council, where the Advice of the Tenants *in Capite* (if they had been then in Use) would have done the Work full out as well, if not better, unless they had been wont to have been formerly summon'd to Parliaments, from the beginning of his Reign, for the giving of Aids, and consenting to Statutes; for certainly if they were summon'd to Less Councils, they had a much greater Right to appear at the Greater: But since my first writing of these Sheets, I find the learned * Doctor *Wake* to have a singular Opinion of his own concerning

* Rights of
the Church,
&c. p. 223.

cerning this Matter, 'for he will not allow this Assembly at *Shrewsbury* to be a *Great Council* of the Nation for the publick Affairs of State, but only a *Lay-Court* for the Tryal and Condemnation of that unfortunate Prince. But I must beg this Reverend Author's Pardon if I differ from him in this, and that for the following Reasons; *First*, Had it been only a Court erected for this Tryal, there had been no need to summon any *Commoners* at all to it; for Prince *David* having been made a Baron of *England*, and having an Estate in Lands given him to be held by that Tenure, the *Peers* alone had been his proper Judges, and the *Commons* had nothing to do in it. But, *Secondly*, It appears by the Writ above-mention'd to the *Knights* and *Citizens*, &c. that they were not summon'd only to try this Prince, but to advise the King what was to be done with him; for he being a Person of that High Quality, and born in *Wales* out of his Territories, the King would not proceed against him, without the Consent and Advice of the Lay-Estates of his whole Kingdom; and if they met and gave their Judgment in it, this was certainly a great Affair of State, pass'd in a *Great Council*, and not barely the trying and condemning of a Criminal, in which (as a Court of Judicature, and not as a Parliament, or Great Council) the *Commons* had nothing to do.

I need not (I think) persue this Point any further, since there was but only One Parliament more, *viz.* that of *Westminster* the *Third* held in the fourteenth of his Reign, between the eleventh and eighteenth Years of this King; the Title of which is very short, and doth not expresse all the constituent Members whereof it consisted; but tis more than probable, that there was no Alteration made in the Members of it, but that they were the same sort of Men who were summon'd to the Parliament or Colloquy last mention'd. There were divers other Parliaments held in this King's Reign, in the Titles to which, since the *Commons* are not expressly named, and from thence Dr. *Brady* hath taken an occasion to urge those Titles as so many Arguments to prove, that they were not summon'd to them, because they are not particularly set down; I shall leave the consideration of those Statutes, until I come to the *Second Part* of this Treatise, to answer the Doctor's Arguments, whereby he pretends to prove, that the *Knights* of *Shires* were not summon'd, from the beginning of this King's Reign, until the eighteenth, nor any *Citizens* and *Burgesses*, till the twenty third Year of his Reign; tho' I think, by what hath been already said on this Head, that Conceit of his is sufficiently confuted.

In the mean time I shall proceed to the third General Head, which was to prove, that the People or *Commons* of *England* have from the 23d Year of *Edward the First*, claim'd this Right of being Represented by *Knights*, *Citizens*, and *Burgesses* by *Prescription*, *i. e.* from Time beyond Memory; and that this Claim had been allow'd by the King and his Council, as also by all the Bishops and Peers of this Realm in Parliament.

I shall begin with the * first Writs of Summons we can find of the *Commons* to any Parliament of this King's Reign, which is to the Sheriff of *Northampton*, to summon two *Knights* for that County, and two *Citizens*, and two *Burgesses* for each City and Borough within

* *Claus.* 23.
E. I. m. 4.
Dors.

within the same, to appear at a Parliament at *Westminster*, to be held on the *Sunday* after the Feast of *St. Martin* in the Winter : This bears date at *Canterbury* the third day of *October* ; however, this Parliament did not meet on the day appointed by the abovesaid Writs, but was Prorogued until the *Sunday* before the Feast of *St. Andrew* the Apostle, as appears by the King's * Writ of Prorogation of it, dated at *Odmer* the second day of *November*.

* *Claus.* 23.
Ed. I. m. 2.
Dors. de Par-
liamento pro-
rogando.

Rot. Claus. 28.
Ed. I. 12. Dors.

But that this was not the first time that *Knights* of the *Shires* were summon'd to Parliament, appears by that remarkable Clause of, *Prout alias in Casu consimili fieri consuevit*, inserted into the Writs for their Expences of the 28th Year of this King, being the first that are extant on the Rolls.

Now can any one imagine, that these words had ever been inserted in this Writ, if *Knights* of *Shires* had been no longer summon'd to Parliament, than from the eighteenth Year of this King, from which, till the twenty eighth, there were scarce ten Years ? and supposing there had been a Parliament held every Year (as there was not) it could not have created such a Custom as to have given occasion to have inserted the Clause above-mention'd in all following Writs for Expences of *Knights* of *Shires*, and also for the *Citizens* and *Burgeffes*.

* *Vid. Rot.*
Claus. 28. *Ed. I.*
m. 12. Dors. 29.
Ed. I. m. 17.
Dors. 33. *Ed. I.*
m. 15. Dors.
34. *Ed. I. m.*
11. *Dors.* 35.
Ed. I. m. 14.
Dors.

And tho' indeed the Writs for their Expences are lost, till those of the twenty eighth of this King, but just now mention'd, yet we find by the like Summons on the Close-Rolls, and the * Writs to the Sheriffs, pursuant to them of the 29th, and 33d, and 34th of this King, for levying their Expences for coming to, staying, and returning from Parliaments, the same Clause, *prout in Casu consimili*, &c. was still inserted, which had been ridiculous, had the Custom of summoning the *Representatives* of the *Commons* to Parliament, been of so late a date as Doctor *Brady* is pleased to conceit.

But that this Custom could not take its rise in this King's, or his Father's Time only, but from Time beyond Memory, I shall make out from certain other Writs entred in the old Register : And the first is, for the Tenants of Antient Demesne, I shall give it you in the Latin Original, as far as is necessary for our purpose, *Rex Vice-Comiti L. Salutem monstraverunt Nobis homines & Tenentes de manerio de F. quod est de antiquo Dominico Coronæ Anglicæ, ut dicitur, quod licet ipsi & eorum Antecessores Tenentes de eodem manerio de F. à Tempore quo non extat memoria semper hæcenus quieti esse consueverunt, de expensis Militum ad Parliamenta nostra & Progenitorum nostrorum Regum Angliæ pro Communitate dicti Comitatus venientium, &c.* from which we may observe, that these Tenants claim by this Writ to be acquitted from the Wages paid to *Knights* of the *Shires*, that came to Parliaments in the time of this King and his Progenitors, which must certainly mean as high as *Richard the First* at least, since it is ordain'd by the Statute of *Quo Warranto* made in the eighteenth of King *Edward the First*, That all those who claim'd any Franchise or Liberty before the time of King *Richard the First*, shall quietly enjoy the possession of it : And it is to be noted, that the beginning of this King's Reign was counted the utmost time, à quo non extat memoria, as it hath been accounted ever since for all real Actions. But to give you the rest of this Writ, it goes on in *English* thus ; That
whereas

whereas the Sheriff distrains the said Tenants to contribute to the Expences of the Knights that came to the last Parliament, to their great Damage, otherwise than had been accusom'd in all times past, omnibus temporibus retroactis fieri consuevit, therefore the King commands him that he desist from his said Distress, and do not compel the said Tenants to contribute otherwise, quam omnibus temporibus retroactis, &c. Now, tho' this Writ be entred without any King's Name, or Date, yet it appears at the bottom, that it was issued out by G. L' Escrope then Chancellor, and William de Herlston, Clerk of the Chancery; and this must have been before the fifteenth of Edward the Second, because it appears by the close * Rolls of that Year, that in December the Great Seal was deliver'd to William d' Ayremyn, under the Seals of William de Clyffe, and the said William de Herlston, Clerks of Chancery, who are often mention'd in our † Records, to have been Keepers of it *pro tempore*, till the Second Year of Edward the Third, when the said William de Herlston had the sole Custody thereof committed to him. There are other * Writs of this kind upon the Close Rolls, as particularly one directed to Sir John de Cobham, and four other Knights therein named, reciting, 'That whereas Simon, Archbishop of Canterbury, claims as well for himself as his Predecessors, and their Tenants hitherto, à tempore quo non extat memoria, certain Lands held in Gavel-kind in the County of Kent, which ought to be free from the Expences of Knights coming to all Parliaments of that King, as well as those of his Progenitors; and then it concludes with a *supersedeas* to the said Sheriff, not to molest the said Tenants, until such time as the King be further inform'd, and that He, by the Advice of his Council, hath ordain'd, what is to be done in the Premises. From both these Writs we may draw these Conclusions; First, That there was at the time of the granting these Writs a Claim by Prescription, time out of Mind, allowed for all Tenants in Antient Demesne, as also for those who held of the Archbishop in Gavel-kind, to be exempted from contributing to the Wages of Knights of the Shire, or else these Petitions, and the Writs upon them had been to no purpose; for you must note, that all Tenants in Antient Demesne, and in Gavel-kind, were made so before the Conquest, and therefore might well plead a Prescription; and were it not that I should be tedious, I could cite several other Writs of this kind, as also Pleas of certain Towns to this purpose, and that not long after the time the Doctor supposes the Commons were again summon'd to Parliament. And as I have now shewn, that the Claim of sending Knights of Shires to Parliament was by Prescription, so I shall next proceed to do the same for the Antient Cities and Boroughs of the Kingdom, and also prove, that they claim'd to send Citizens and Burgeses to Parliament by the like Right of Prescription. I have a little before cited the Writs of Expences of the Knights of Shires, that came to Parliament in the 35th Year of this King; and upon the same Roll, there is also enter'd a * Writ to the Bailiffs of the Town of St. Alban's, commanding them to levy of the Community of the same Town for Simon Trewisks and Adam Ettestile, their reasonable Expences for coming to the Parliament at Carlisle, to treat with the King, *super diversis negotiis Nos & statum Regni nostri tangentibus*, i. e. concerning

* Rot. Claus.
15. Ed. II. M.
37. Dorso in
Sedula.

† Rot. Claus. 3.
Ed. III. M. 33.
Dorso.

* Claus. 50.
Ed. III. par. 2.
M. 19. Dorso.

* Rot. Claus.
35. Ed. I. M.
14. Dorso.

divers Affairs touching Us and the State of our Kingdom, for their coming, staying, and returning home, *prout in casu consimili fieri consuevit*. This bears date at *Lanercost*, the twentieth Day of Jan. Then below there is entred, *Consimiles Literas habent Cives & Burgenses subscripti pro expensis suis in Civitatibus, Burgis & Villis subscriptis*, i. e. the like Letters or Writs have the Citizens and Burgeses under-written, for their Expences in the Cities, Towns, and Boroughs that there follow, such as *London*, &c. And on the * Close-Roll of the fifth of *Edward the Second*, there is a like Writ to the Bailiffs of the same Town, for levying the Expences for *Ralph Pycot* and *Peter Pycot*, who had lately come to the King to his Parliament at *London*, and concludes with the like Clause, *Prout in Casu consimili fieri consuevit*.

* Part I. M.
24. Dors.

* Inter Brevia
Regis de Anno
5. Ed. II. n.
104. apud
Tarrim Lond.

But because this Writ to the Bailiffs was not observed, the King issued out a * Writ to the Sheriff of *Hartford-shire*, reciting the aforesaid Writ to the Bailiffs of *St. Alban's*, and then proceeds, ' That whereas the Bailiffs of the Abbey of *St. Alban's* had made a Return, ' that they had neither levied nor paid any Money to the said *R. P.* ' and *P. P.* because the said Town is no *Borough*, but is to be Taxed ' with other Towns, who pay Expences to *Knights of Shires*, that ' came to Parliament *totis temporibus retroactis* (in all times past) ' but since it is shewn to the King on the behalf of the said *R. P.* ' and *P. P.* that the said Town was never accustom'd to pay Ex- ' pences to the *Knights of Shires*, but is *Liber Burgus* (a Free Bo- ' rough) and that they have been present in all Parliaments, which ' were summon'd in times past by Writs of the King Himself and ' his Progenitors, as other *Burgeses* of the Kingdom have been hither- ' to accustom'd, the King thereupon appointed the said *R. P.* and *P. P.* ' to appear before Him in Chancery on the Octaves of *St. Hillary*, to ' inform Him more fully concerning the Premises, and to receive ' what the Court should order in that Case ; therefore He again ' commands the said Sheriff to give notice to the Abbot and Bai- ' liffs of *St. Alban's*, that they should appear before the King in Chan- ' cery, in *Quindena Pasche* next coming, to shew Cause, why the ' said *R. P.* and *P. P.* should not receive their said Expences as ' *Burgeses* for the said Town, according to the King's Command. This bears Date at *York* the 20th of *January*, *A. R.* 5.

† 1b. 5. Ed. II.
M. 16. Dors.

There is likewise a † second Writ on the same Roll, and of the same Year of this King, and seems to have been to another Parliament before this, and is directed to the said Bailiffs of *St. Alban's*, for the paying *Peter le Plomers*, and *Peter Picot*, Burgeses of Parliament their Wages, *prout aliàs in Casu consimili fieri consuevit*. This is dated at *Westminster* the 18th Day of *December*.

From which Writs for the Expences of these *Burgeses* we may observe, First, That the *Burgeses* of *St. Alban's* had their Expences for coming to Parliament, in all times foregoing ; and that this Phrase imports no small space of Time, appears by the second Writ, whereby they claim'd to come to Parliament in the Time of the King Himself, and his Progenitors, which may reach as high as the time of King *John*, Great Grand-father to *Edward the Second* ; and lastly, They claim'd this Privilege as being a *Free-Borough*, and not being Taxed with the County of *Hartford*. What was further done in this

this Dispute between the *Burgesſes* of this Town, and the Abbot and his Bailiffs, we do not find, till the Eighth Year of this King, when they, being then hinder'd from having any Return made of their *Burgesſes* elected to Parliament, ſollicited the King and his Council againſt the ſaid Bayliffs, as appears by their * Petition in *French*, which is found looſe among a Bundle of other Writs, and was from thence enter'd upon the Parliament † Roll of this Year in *Latin*, together with the Answer thereupon by the King and his Council in Parliament, I ſhall tranſlate the Subſtance of this Petition into *Engliſh*, and leave the Reader to conſult the *Latin* Original in Mr. * *Petyt's Rights of the Commons*, and Dr. † *B's* Answer to it. In *Engliſh* it is thus,

* *Ex Bundello*
Miſcelan. temp.
H. 3. Ed. 1.
Ed. 2. &
Ed. 3. in Turri
London.
 † *Rot. Parl.*
n. 233.
P. 7. 8.
 † *P. 37. 38.*

‘ Upon the Petition of the *Burgesſes* of the Town of *St. Albans*, ſuggeſting to the King, that altho’ they hold the Town aforeſaid of the King in Chief, and they as other *Burgesſes* of the Kingdom, ought to come to the King’s Parliaments, *when they ſhould happen* to be ſummon’d by two of their Fellow-*Burgesſes*, *as they were uſed* to do in all paſt times, for all Services which were to be perform’d to the King; which Services the ſame *Burgesſes* and their Predeceſſors, *Burgesſes* of the ſaid Town, have perform’d, as is before declar’d, as well in the time of *Edward* late King of *England*, Father of the King and his Progenitors, as in the time of the King that now is, always before this preſent Parliament: The Names of which *Burgesſes* for the ſaid Town, ſo coming to the King’s Parliaments, were always enroll’d in the Rolls of the Chancery. Nevertheless the King’s Sheriff of the County of *Hertford*, by the Favour and Procurement of the Abbot of *St. Albans*, and by his Advice reſuſed to warn the ſaid *Burgesſes*, or return their Names according to his Duty, that they might do their Service aforeſaid, in Contempt of the King, and prejudice of the *Burgesſes* aforeſaid, and manifeſt Danger of diſinheriting of them, for which they crave an opportune Remedy.

It was answer’d by the * Council: *Let the Rolls of Chancery be ſearched, &c. whether in the time of the King’s Progenitors, the Burgesſes aforeſaid uſed to come or not, and then let them have Juſtice done in this matter, thoſe being call’d, who ought to be call’d if there be occaſion*; the *Latin* Words are, *vocatis evocandis ſi neceſſe fuerit*.

* *i. e. the*
King’s Coun-
cil in Parlia-
ment.

I will give you now † Doctor *B's* Answer to this Authority, where-in he ſlyly paſſes by (yet at the ſame time tacitly allows) the Claim by Preſcription of theſe *Burgesſes*, that they had come to Parliament in the time of King *Edward*, Father of the King and his Progenitors, as in the time of the King that now is; but however he does whatever he can to evade the force of this Authority; and, to amuſe his Reader, finds fault with Mr. *Petyt*, that he hath conceal’d part of this Record, that the *Burgesſes* of *St. Albans*, and of other *Boroughs* did, or ought to come to Parliament by reaſon of their Tenures in *Capite*, for that it was in lieu of all other Services perform’d to the King in reſpect of that Tenure; and then in the next Paragraph he proceeds thus, ‘ for’tis evident, the *Burgesſes* of *St. Albans* claim’d not, nor preſcribed, to come to Parliaments meerly as from a *Borough*, but as from a Town that held in Chief of the King; and this Service was incident to their Tenure, and was ſuch as the King’s Pro-

B. A. P. p. 38.

Pro-

' Progenitors had accepted in lieu of all Services due by reason thereof: The Doctor has thought fit to tax Mr. P. for concealing that Clause in this Record, concerning the Burgesſes of St. Albans holding in Capite, as if it were done on purpose, which I have no reason to believe, for I do not ſee what Advantage he could gain by it to the Cauſe he aſſerts; but this I am ſure of, that the Doctor hath here wrested the Senſe of this Record, in making not only St. Albans, but all other Boroughs of the Kingdom, to have no Right to come to Parliament, otherwiſe than by reaſon of their Tenures in Capite, which is more than the Record it ſelf ſays; for tho' the Burgeſſes ſet forth in their Petition, that they hold the ſaid Town in Capite, and that they, as other Burgeſſes of the Kingdom, ought to come to the King's Parliaments, yet they do not ſay, that thoſe other Burgeſſes came thither as Tenants in Capite; and if they had, their Averment would not have been true; and the Reader may if he pleaſes compare the Original Latin Record, with the Doctor's own Engliſh Tranſlation, which I have here given, and conſider whether they agree with the Gloſs, that He hath here put upon it; and therefore what he avers from thence is likewiſe falſe, that the Burgeſſes of St. Albans claim'd not to come to Parliaments meerly as a Borough, but as a Town that held in Chief from the King, whereas there are divers Cities and Boroughs in England, which held of Biſhops and other Great Lords, and not of the King at all, as I ſhall ſhew you more at large anon. But before I do that, I cannot but take notice, that the Doctor (I ſuppoſe before he was aware) has in the laſt three Lines of this Paragraph granted the Plea of thoſe Burgeſſes of St. Albans, that this Service (viz. of coming to Parliament) being incident to their Tenure, was ſuch as the King's Progenitors had accepted of in lieu of all Services due by reaſon thereof. Now if the King and his Progenitors had thus accepted of this Service, the conſequence muſt be, that they ſent Burgeſſes to Parliament, not only in the time of this King, but of his Father and his Progenitors, which muſt reach as high as King John's or Henry the Second's Reign: But this Conceſſion cannot agree with the Doctor's poſitively aſſerting, that the Commons never had any Representatives in Parliament till the Forty ninth of Henry the Third; and that as for the Cities and Boroughs, they never ſent any Representatives thither, till the Twenty third of Edward the Firſt, when their Firſt Writs for their being ſummon'd to Parliament are found upon the Roll, as he ſets forth in this very Answer to Mr. Petyt, and he is more poſitive in his Treatiſe of Cities and Boroughs, Page 24, 25. wherein he expreſſly aſſerts, that Citizens and Burgeſſes were firſt ſummon'd to the Parliament abovemention'd, and alſo undertakes to give his Reaſons for this Alteration.

But to return to the Subject from whence we have digreſſed; I ſhall now ſhew the Doctor's Miſtake, and prove, that there are many Cities and Boroughs of the Kingdom, which ſend Citizens and Burgeſſes to Parliament by Preſcription, which yet did not hold of the King in Capite; and ſhall give you divers Inſtances which I received from a * Learned Friend late deceaſed, who took them out of the Rolls in the Tower; tho' when he ſent them me, either thro' haſt or inadvertency, he forgot to ſet down the number to moſt of

* Sir J. Marſham, the younger, Baro-
niſt.

of such *Boroughs* that never held *in Capite*, and yet always sent *Burgesſes* to Parliament by *Preſcription*: As *Fiſt*, the Borough and Caſtle of *Arundel*, which was held of the Earl, and not of the King, being granted by *Henry the Fiſt* to *Hugh Montgomery*, Earl of *Arundel*. Secondly, The City of *Bath* holds of the Biſhop of that City. Thirdly, The City of *Wells*, which always held of the Biſhop, and never of the King, and is therefore called *Villa Episcopi* in all publick Writings belonging to that Church, and was made a *Free-Borough* in the third Year of King *John*. Fourthly, *Beverly* was made ſo by *Thurſtan*, Archbiſhop of *York*, which was confirm'd by King *Henry the Third*. Fifthly, *Bodmin*, which always held of the Priors of *Bodmin* in *Cornwal*. Sixthly, *Bridgwater*, for King *John* granted to *William Brewer*, *quod Brugwater ſit liber Burgus*. Seventhly, *Conventry*, which was always held of the Earls of *Cheſter*. Eighthly, Biſhops *Lynne*, for King *John* granted to *John*, Biſhop of *Normich*, *Quod Burgus de Lenna ſit Liber Burgus in perpetuum*. All which we find by the Writs we have left us, ſent *Burgesſes* to Parliament as early as any that held *in Capite*: Theſe, I think, may be ſufficient to make good my Point; but I doubt not, if I had leiſure enough for it, but I could ſhew you three times as many, eſpecially in *Cornwal*, where the *Boroughs* did almoſt all hold of the Earls of *Cornwal*, and not of the King: ſo likewise in *Herefordſhire* and *Worceſterſhire*, where are many *Boroughs* at this Day, that hold of theſe Biſhops of *Hereford* and *Worceſter*, and not of the King.

But it is time to return to the Doctor, and give you the reſt of his Learned Obſervations upon this Petition, which are theſe: ‘ And further, ſays he, the Answer to this Petition is remarkable, for if it did appear by the Chancery-Rolls, that the *Burgesſes* of *St. Alban's* were wont to come to Parliaments in the times of the King's Progenitors, then ſuch as have been call'd, ſhould be call'd, when there was neceſſity for it. Hence 'tis clear, adds he, that the King and his Council were equally Judges when it was neceſſary to call them, and for them to come, as they were of their Right and Pretences to come.

It hath been objected (ſays the Doctor) by one that ſeldom knows or underſtands what he ſays, that *evocatis evocandis*, cannot be underſtood of calling *Burgesſes* to Parliament, but thoſe words are ſo to be interpreted, that if after the Rolls were ſearched, farther Tryal or hearing of the Parties were neceſſary, then they ſhould be call'd, and their Reaſons heard.

And to this he answers, that every Plea ought to be tryable, either by the County, if Matter of Fact; or by the Juſtices, if Matter of Law; or by the Record it ſelf, if it conſiſt in Matter of Record; for the Law doth give ſo much Honour and Credit to Records, that they ſhall be tryed only by themſelves. This Tryal therefore depending wholly upon Record, the words cannot be underſtood of calling Parties in order to any further Tryal.

Yet notwithstanding the Doctor's great Confidence, I think his Antagoniſt, whom he treats with ſo much Scorn and Contempt is in the Right; and that the words *Evocatis Evocandis*, &c. are here to be underſtood of calling the Parties or Witneſſes, if there were occaſion, and I am the more too inclin'd to believe it for theſe Reaſons:

The Author
of *Jani Anglor. ab Antiq.*

Ibid. Coke's
Reports,
Part 9. the
Caſe of the
Abbot of
Strata Marcella. p. 30, 31.

sons: *First*, From the Judgment which was given in the fifth Year of this King, when this Matter began first to be in dispute between the *Burgeses* and *Bailiffs* of *St. Alban's*, as appears by the Writ before cited, which I need not repeat; only you may remember, that the Privilege which this Town then claim'd of sending *two Burgeses* to Parliament, was acknowledg'd but three Years before, by having a Writ for the allowance of their Wages; so that this being a Matter of Record, it is a very proper Answer for the King's Council, to order the Rolls of Chancery to be searched; and if those were not sufficient, then *Evocatis Evocandis si necesse fuerit*, i. e. Let such Witnesses be summon'd as ought to be summon'd to prove it, if there be any necessity for it: So that it seems the Chancellor was to judge of this, for in the Record now before us, there is not one word concerning the bringing it before the *King's Council*, or of their taking upon them to do Justice in it, but only in general, *let Justice be done*, which would have been a very improper way of speaking, had this Justice been to be done immediately before themselves; and therefore it is a great Mistake in the Doctor to render those words *Evocatis Evocandis si necesse fuerit*, such as have been call'd, should be call'd, or summon'd when there was necessity for it.

Nor is the forced Inference he makes from it less absurd; for, says he, *Hence it is clear, the King and his Council were equally Judges, when it was necessary to call them, and for them to come, as they were of their Right and Pretences to come*, which is directly contrary to the purport of the said *Burgeses* Petition, who therein set forth, that they ought to come to the King's Parliaments when they should be summon'd by two of their *Burgeses*, as they were wont to do in all times past for all Services, &c. which is a Claim not of Favour, but of Right, and which Claim is here admitted by the King and his Council to be good, if they could make it out; and therefore the Answer of the Council was, *Let the Rolls be search'd, and then let Justice be done*. But this would have been a very impertinent Answer, if when the Rolls had been search'd, the King and his Council should have been equally Judges, not only when it was necessary to call or summon them, as well as other *Burgeses* to Parliament, but also of their *Right* to come at all; which would indeed have quite taken away all that these *Burgeses* then claim'd and petition'd for, and have wholly resolv'd it into the Arbitrary Will and Pleasure of the King and Council: And that this is so, I shall appeal to the very words the Doctor hath cited from *Cook's Reports*, that every Plea is tryable either by the *County*, if Matter of Fact; or by the *Judges*, if Matter of Law; or by the *Record* it self, if it consist in Matter of Record; for the Law doth give so much Honour and Credit to Records, that they shall be try'd only by themselves; the meaning of which is, the Judges are obliged to give Judgment according to the Record, and not according to their own Discretions; so that if we suppose the King's Council in Parliament to have had the Rolls brought before them, and to have therein found that the Town of *St. Alban's*, had sent Members to Parliament time beyond Memory, I see no reason why the King's Council should not have been as much obliged to allow of this Record, as the Judges in *Westminster-Hall*? Nor does the King's Council refer the Decision

to the Rolls alone, but also to the Testimony of Witnesses, as appears by what follows, *Evocatis Evocandis si necesse fuerit*; which I take to be the true Grammatical sense of these words, and can by no means be understood in that (as the Doctor would have them) of their being summon'd or call'd to Parliament, only when there was any need of it. Since the words *Evocatis Evocandis*, &c. can no way admit of that Construction; for we find in *Pliny the Younger*, that *Evocare testes* is to summon Witnesses; and in the Forms of the Civil and Common Law-Courts, *Evocatis Evocandis* always signifies the citing of the Parties concern'd, or such Witnesses as are necessary in a Cause depending, and so far it is intelligible; but I should be very glad if any of the Doctor's Friends, to whom he left his Notes and Collections, could give us any Precedents, that *Evocare ad Parliamentum*, is ever put for summoning Members to Parliament; but enough, if not too much of such trifling as this.

Now, to put this Matter beyond all dispute, tho' we do not find it expressed in other Parliamentary Records, that upon this Plea of the Burgeses of *St. Alban's*, Judgment was given for them, yet that it was more than probable, appears by another of this King's * Writs, * *Rot. Claus.* upon the Close-Roll of this Year, directed to the Sheriff of *Stafford-shire*, for the levying of the Expences for the Knights of that Shire, who came to the Parliament at *Westminster*, on the Octaves of *St. Hilary* last past, being 19th 10th s. at four Shillings *per Diem*, dated at *Westminster* the ninth Day of *March*; and then follows thus on the same Roll, *Consimiles litteras habent Cives & Burgenses subscripti*; then follow the Names of several Cities and Boroughs, who were to receive for each of them four Pounds sixteen Shillings, at two Shillings *per Day* for the time they had served: And, among the rest, the like Sum was to be paid to *Thomas le Taylor*, and *William*, Son to *John* the Mareschal, who had come as Burgeses from the said Town to the late Parliament; so that from their appearing there, and having their Wages allow'd in the Parliament, immediately following the former, in which they petition'd the King and Council, it evidently proves, that their Plea had been allow'd, and Judgment given in their favour.

And this is still further confirm'd by the Letters-Patents of the First of *Edward the Third*, reciting and confirming a certain Indenture in *French* made between the Abbot of *St. Alban's*, and the Burgeses of the same Town, bearing Date the Monday after the Feast of *St. Gregory* the same Year; wherein there is contain'd a final Agreement of all Quarrels and Dissentions between the said Abbot and Burgeses; and after the recital of the Bounds of the said Abby, and of its particular Privileges, the Abbot does there likewise acknowledge, that the said Burgeses of *St. Alban's*, whose Names are there particularly set down, *Puissent de Eux-mesmes eslire deux Burgeis d'aler à chescun Parlement*, that is, they were empower'd to chuse from among themselves two Burgeses to go to every Parliament; and that this was farther continued in the second Year of *Edward the Third*, appears by a like Record on the same Roll, being a Writ for the Expences of *Roger Rayson* and *John Sterthop*, Burgeses for the said Town in the last Parliament or Treaty held at *York* the Sunday after *St. James's-Tide* last past. This Writ bears

K

Date

Rot. Pat. 1. Ed.
3. M. 28. Pro
Abbate de
Sancto, Alba-
no &
Burgensibus
ejusdem Vil-
le

Rot. Claus.
2. Ed. 3. M.
16. Dorf.
Pro Expens.
Burgensium

Date at *York* the sixth of *August*, by the *King* and *Council*. The like Writs have the Bailiffs of the Towns here subscribed, *viz. &c.* So likewise in the fourth Year of this King there is a Writ (found among a loose Bundle of Writs of Summons preserved in the *Tower*) directed to the Sheriffs of *Essex* and *Hartford-shire*, setting forth a Writ of Summons to a Parliament at *Westminster*, on the *Monday* after the Feast of *St. Catherine* next coming; and that two Knights for each County, and two Burgesſes for each Borough, should be chosen for the same. Dated at *Leicester* the twenty third of *October*, *Anno Regni Quarto, per ipsum Regem & Consilium*. Then follow, in the same Record, the Names of the two Burgesſes of *St. Alban's*, who were there return'd; and also the Names of the two Manucaptors for their appearance in Parliament.

But if there had been none of these last Proofs, the Matter of Fact already cited, had been sufficient, since this Plea of the Burgesſes of *St. Alban's* having been allow'd by the King and his Council, was enough to prove that it was true, that the antient Boroughs had a Right of sending Members to Parliament by *Prescription, viz. Time beyond Memory*; or else certainly the King's Council would have been so far from allowing it, that they would rather have deny'd the ground of the Claim these Burgesſes then made; for had their being summon'd to Parliament been of no longer Date than the twenty third Year of the last King's Reign, it would not from that time to the eighth of *Edward the Second*, have been full twenty Years, which being within the Memory of all the Councillors there present, they would certainly have rejected this Plea as ridiculous, because they themselves could very well remember, when *Citizens* and *Burgesſes* had been first summon'd to Parliament, except only once in the forty ninth of *Henry the Third*, which yet was not fifty Years before that very time, when this Dispute happened between the Burgesſes and Bailiffs of *St. Alban's*, and so might also have been within the Memory of divers of the Members of that Council, who might very well be about threescore Years of Age, and have remember'd when no Cities or Boroughs sent Members to Parliament at all.

I have been the more particular in the Account of this Transaction, because not only this antient Borough of *St. Alban's*, but every other City and Borough in *England*, that claim'd to send Burgesſes to Parliament by *Prescription*, might have made the like Plea, and have obtain'd the like Judgment in case their Right had been question'd.

I shall in the next place proceed to shew you, that not only the King and Council, but the Earls and Barons themselves, have declar'd their Judgment that the *Commons* in Parliament were of the like standing and Antiquity with themselves; and this I shall prove from two remarkable Instances; the first is, that memorable * Record of Parliament in the Fortieth of *Edward the Third*, when
 ' the Pope demanded of Him the Arrears of the Tribute, or Pen-
 ' sion formerly granted by King *John* to his Predecessors; where-
 ' upon after full Deliberation in Parliament, the Prelates, Lords,
 ' and Commons, resolved with one accord, *That neither the King*
 ' *nor any Other could put the Realm (or People thereof) into such Sub-*
 ' *jection*

* *Rot. Par.* 40.
Ed. 3. n. 7.

jection, sanz Assent de Eux, i. e. without their Assent, viz. as well of the *Commons*, as of the Lords; And further that if He had so done, it was done sanz *lour Assent*, and contrary to that King's Coronation Oath, &c. Now what can be more plain, than that above three hundred Years ago, there was not the least Dispute, whether the Commons of *England*, as well as the Lords, ought to have been present in the Common Councils of the Kingdom in King *John's* Reign, but an owning that they ought to have assented to that King's Resignation, to render it legal and valid, as well as the Prelates, Earls and Barons.

To this Authority, I shall give you the † Doctor's Answer in his † *B.A.P. p. 70* own Words, viz. All that the Resolution of this Parliament proves in this Case, is, that King *John* could not subject Himself, his Realm, or People, without the Assent of a Parliament, but proves not, who they were, that in such Cases, or at that time, gave or deny'd their Assent, or how they did it, or whether One hundred fifty three Years before this Resolution, the *Commons* were represented by Knights, Citizens, and Burgesses, as they were when this Resolution was given; and the Prelates, Earls, and Barons, gave their Assent first, that such a Subjection could not be made without their Assent; and then the Commons were ask'd, what their Thoughts were, and they answered in the same manner, and in the same Words as the Barons had done, and when they answer altogether, they do it in the same Form of Speech conceiv'd, first by the Barons, without any consideration whether the *Commons* were the same Body of Men, at the time of executing the Charter of King *John's* Subjection, &c. as at that present or not.

This Objection of the Doctor's not being at all satisfactory, I think there may be this Reply made to it; if there is no credit to be given to this Resolution of both Houses of Parliament, laid down in so solemn a manner, I know not how they cou'd be believed in any thing else they declared, if once the *Commons* are supposed to speak like Parrots after the Lords, without considering what they said. And tho' the first Proposal of this matter was by the King to the Lords, yet the Pope then threatening to *Excommunicate* Him, and put the whole Realm under an *Interdict*, it was certainly the Interest as well of the *Commons* as the *Lords* to avoid the Blow by a wary and true Answer to the Pope's Demands; for had their Answer been so idle and frivolous, as the Doctor would make it, it had been Advantage enough for his Sanctity to have return'd in answer to this Letter, (had what the Doctor alledges been true) that the upstart House of *Commons* had nothing to do to meddle or treat of any such matter, since they were none of the Parties to the Agreement, nor any Members of the Common Council of the Kingdom at that time when King *John* resign'd his Crown, and made Himself and Kingdom tributary to his Holiness's Predecessor: Nor was the space of an hundred fifty three Years (from the time of King *John* to the Fortieth of *Edward the Third*) so far beyond the Memory of Man, that so remarkable a Transaction could not be well known to the Pope, as well as to the House of *Commons* then in being, since the calling them to Parliament fell out but in the time of their Grandfathers at furthest, and therefore almost to be forgot by all then living.

I shall now proceed to my last Authority, (tho' of somewhat a later Date, which is from the same * Author from whom I have borrow'd the former, and it is the Sense of the House of Commons, in the Second Year of Henry the Fifth, in their Petition presented to Him in these Words, *Our Sovereign Lord the King, your humble and trewe Lieges, that ben come for the Comens of your Lond, bysechin unto your riht Wisenesse, that soo as hit hath ever be thair Libertie and Freedom, that there should noo Statute, noo Law be made, of less then they yaf thereto their Assent, considering that the Comens of your Lond, the which that is, and ever hath be a Member of your Parliament, been as well Assentirs as Petitioners, that fro this time forward by Complaint of the Commune of eny Mischief, asking remedy by mouth of their Speaker for the Comens, outherself by Petition written, that there never be noo Law made thereupon, and ingrossed as Statute and Law, neither by Additions, neither by Diminutions, by no manner of Terme ne Termes, the which should change the Sentence, and the Intent asked by the Speaker's mouth, or the Petitions by foresaid yeven up in wryteing by the foresaid, without Assent of the foresaid Comens, &c.* the rest, as not so much to the purpose, I omit : Now that this Petition was allow'd by the King and Lords, appears by the Answer to it in these Words : *The King of his Grace especially granteth, that from henceforth, nothing be enacted to the Petitions of his Commune that be contrary of their asking, whereby they should be bound without their Assent, saving always to our Liege Lord his † Real Prerogatyf to grant, and deny, what Him lust of their Petitions, and Askings aforesaid.*

Rot. Parl.
2 H. 5. Part 2.
n. 22.

† i. e. Royal.

I shall now give you Dr. B's Answer to this Objection, and that too in his own Words, viz. ' That * the Design of this Petition was not to set forth the Antiquity of the Existence of the Commons, but their Right, that nothing might be enacted without their Assent, contrary to their intent and liking ; and to shew that it was never done, since they were (as they say) a Member of Parliament, therefore 'tis needless to prove that which no Body denies, that the Assent of the Commons was then, and is now required to the making of all Statutes and Laws ; for pray give me leave to ask you, What, were the Commons of England, as now represented by Knights, and Citizens, and Burgeesses, ever an essential, constituent part of the Parliament from Eternity, before Man was created ? Or have they been so ever since Adam ? Or ever since England was peopled ; Or ever since the Britains, Romans, and Saxons inhabited this Island ? Certainly there was a time when they began to be so represented, and that is the Question in dispute.

This Answer of the Doctor's is indeed rather a Cavil than a fair and ingenuous Reply ; for who can imagine, that the Commons ever pretended to come to Parliament before Parliaments were in being ? but only ever since they were instituted ? and to shew you the Absurdity of the Doctor's Queries, I shall alter the Case, and suppose, that when the Bishops in the Year 1641, were to be excluded the House of Lords by a Bill brought up by the Commons for that purpose, they had put in a Petition to the two Houses of Parliament, setting forth their antient Right to be Members of that Assembly, in these or the like Words, *That they had been ever or always summon'd to Parliaments ;* would it have been a fair Answer of the House

of

of Lords or Commons, to have ask'd them, whether they were as antient as *Adam*, or ever since the Island had been inhabited? since every one knows, that general Words are always to be understood, not literally, but according to the Intent and Meaning of those that speak them, and that is, generally.

But I shall now say somewhat to that part of the Doctor's Answer, which has some more weight, *viz.* that the King and Lords did not allow their whole Petition, for their Intent and Meaning was no more, than that nothing had been enacted without their Consents, ever since they had been summon'd to Parliament; and therefore the King had no reason to give an Answer to any more of it, without taking notice of the rest. To which it may be reply'd, that this is a very forced Interpretation, because the Commons Assertion is positive, who affirm, *that they had ever been a Member of Parliament*; and if the King and Lords had not been satisfied with the truth of this, it had been very proper for them to have told the said Commons, that they were very presumptuous in going about to impose upon the King, seeing that it was not an Hundred and fifty Years, since they were first summon'd to appear there.

But indeed the King and Lords were very well satisfied; that this was not the first time they had put in this Claim; for it appears upon the Parliament * Rolls, that they had made a like Declaration in the time of his Grandfather King *Edward the Third*, wherein they said peremptorily, *they would not be obliged to any Statutes or Ordinances made without their Consents.* Of the like nature to which, I could also give you another Instance in the Reign of *Richard the Second*, were not what I have already said, sufficient upon this Subject. * Rot. Parl. 18 Ed. 3. m. 6.

And now I come to the fourth and last General Head, to give you the Testimony of divers learned Antiquaries, who are all of this Opinion, and assert this to be the Antient Rights of the *Commons of England by Prescription*, both before and since the pretended Conquest.

I begin with the Authority of the antient Treatise, call'd, *Modus tenendi Parliamentum*; and tho' I am satisfied by the Arguments brought by Mr. *Selden* in his *Titles of Honour*, that it is not of that Antiquity as Sir. *Edward Cook* and others have supposed it to be, yet it is certainly as antient as the Reign of *Edward the Third*, as is visible by the hand of that Copy, still preserved in the *Cottonian-Library*; and also tho' I grant the Author of it was mistaken, in supposing that the manner of holding Parliaments in his own time, was as antient as King *Ethelred* Father to *Edward the Confessor*, and consequently, that the summoning the *Commons* to Parliament by *Knights, Citizens, and Burgeesses*, according to the Form there set down, was of the same Antiquity; yet that it was then very antient, appears by his representing the *Commons* to be summon'd to Parliaments, *Time beyond Memory*; which certainly he would never have done, had their first summoning been then known to be no Antienter than the Forty ninth of *Henry III.* at the furthest, from which time down to the middle of the Reign of *Edward III.* (when we may suppose this Author to have wrote) there was not Ninety Years. And if it was not within the Memory of any Man then living,

ving, yet was it, to be sure, within that of their Fathers, who ('tis not likely) would omit telling their Children of so remarkable an Alteration in the Government, as the exclusion of all the less Tenants *in Capite*, and the summoning of *Knights, Citizens, and Burgeses*, to future Parliaments in their steads: But if this Alteration was made about the middle of *Edward the First's* Reign, (as *Dr. Brady* supposes) it will be about twenty Years later than the time *Sir Henry Spelman* and *Mr. Pryn* allow it.

I shall next proceed to that Learned Antiquary *Mr. Lambard*, who was certainly the best vers'd of any one in his time in the *English-Saxon* Laws and Antiquities; and since his Opinion is clear for the Right of the *Commons* to appear in Parliament by *Prescription*, even before the said *Conquest*, I shall give you his Sense of it, out of that little, but Learned Treatise, called his *Archeion*, in these Words:

' That whereas in the beginning of the Laws (*viz.* those made by the *Saxon* Kings he there mentions) all the Acts are said to pass from the King and his Wise Men, both of the *Clergy* and *Laity*, each Statute being pen'd thus, and it is the *Sentence of our Lord and his Wise Men*; so that it appears, that it was then a received Form of Speech, to signify both the *Spiritualty* and *Laity* (that is to say, the Greater *Nobility*, and the less *Commons*) by this one Word *Wises*, *i. e.* *Wisemen*.

' Now as these written Authorities do undoubtedly confirm our Assertion of the Continuance of this manner of Parliament, so is there also unwritten Laws, or *Prescription*, which do no less infallibly uphold the same; for it is well known, that in every quarter of the Realm, a great many *Boroughs* do yet send *Burgeses* to the Parliament, which are nevertheless so Antient, and so long since decay'd, and gone to Ruin, that it cannot be shew'd, they have been of any Reputation since the *Conquest*, and much less that they have obtain'd this Priviledge, by the Grant of any succeeding King: So that the Interest which they have in Parliament groweth from an antient Usage before the *Conquest*, whereof they cannot shew any beginning. And this is also further confirm'd by a contrary Practice in the very same thing; for it is well known, that the Tenants of *Antient Demesne* do prescribe in not sending to the Parliament; for which reason also, they are neither Contributors to the Wages of the *Knights of Shires*, neither are they bound by sundry Acts of Parliament, tho' they be generally penn'd, and make no Exceptions of them. But there is no *Antient Demesne*, saving that only which is described in the Book of *Doomesday*, under the Title of *Terra Regis*, which of necessity must be such as either was in the hands of the Conqueror, who made the Book, or of *Edward the Confessor*, that was before him. And so again, if they of *Antient Demesnes* have ever since the *Conquest* prescribed not to elect and send *Burgeses* to the Parliament, then (no donbt) there was a Parliament before the *Conquest*, to the which Other Places did send their *Burgeses*.

I shall now give you the Opinion of that learned Antiquary *Mr. Somner*, who albeit he doth not speak so fully as the Author last cited, in allowing the *Commons* a Right by *Prescription*, yet he plainly

plainly contradicts the Opinion of those Gentlemen, who will not allow the *House of Commons* to have been more Antient than the Forty ninth of *Henry the Third*, for in his Version of that Old *English* Writ or Proclamation, issued by *Henry the Third* in the Forty second Year of his Reign, for the due Observation of the late Provisions made at *Oxon* by the *Loandesfolk*, (that is in *Latin*, *Populus Terræ*) and by this Author in a Manuscript Version of it which I have seen under his own hand, is render'd *Commons*, whom he supposes to have been present at that Parliament, tho' the Writs of Summons are now lost; this Writ, with the Translation to it, you may find printed in the *Appendix* to my last Volume of the General History of *England*.

I shall in the next place give you the Authority of the most Celebrated Mr. *Selden*, who in his Notes upon *Fleta*, speaking of that great Question which arose in Parliament in the Reign of *Edward the Third*, concerning King *John's* Donation of his Kingdom to the Pope, sums up the Resolution of all the Estates there present, in these Words: *Ordines Universi tam generis Hieratici, quam Proceres, Senatus, Populusq; solenni inita deliberatione, in Comitibus illi responderunt unanimes, irritam planè fuisse Johannis Donationem, utpote tam Sine Ordinum Assensu quam juramento Inaugurati adversum*, which I shall for the satisfaction of ordinary Readers translate into *English*, since the *Latin* is somewhat difficult; 'There all the Estates, as well 'the Bishops as the Great Lords, Senate and People, (by which he 'means the *Commons*) after a solemn Deliberation in Parliament, 'answered the Pope, with one Consent, that the Donation of 'King *John* was absolutely void, as being made without the Consent of 'the *Estates*, (that is, of all those already mention'd) and was also contrary to his Coronation-Oath. From which Passage we may observe, that Mr. *Selden* here intended to translate into *Latin*, that famous Judgment in the Parliament of the Fortieth of *Edward the Third*, (already cited) in which the Bishops, Lords and Commons declare, that King *John* could not make over his Kingdom to the Pope, sans leur Assent, that is, without the Consent of all the Estates; whereas King *John* made this Resignation with the consent only of them, viz. some few of the Earls, Barons and Tenants in *Capite*, none of the Bishops or Abbots, much less any Representatives of the *Commons* being there, as you may find in *Matt. Paris* and other Authors Relation of it. And that he did not believe the less Tenants in *Capite*, in a body, were at the latter end of King *John's* Reign Members of the Great Council of the Kingdom, appears from what the same Author says in his * *Titles of Honour*; for he supposes there, that at the time when King *John* granted his great Charter, the greater Barons had procured a Law (tho' now lost) to exclude the less Tenants in *Capite*, from any Interest in the Parliaments of that time, under the Title of such Tenants; and in the following † Page, he supposes also, that the Alteration, whereby those Tenants were no more reckon'd as Barons of Parliament, was not made so late, as about the latter end of *Henry the Third*, (as *Cambden's* nameless Author relates) but much sooner, before the *Magna Charta* of King *John*; for (says he) in all Occurrences that I meet with since that time, I find no mention made of any Interest,

* *Par. 2. p. 588.*
Edit. ult.

† *Page 589.*

terest, those Tenants *co nomine* had in Parliament, who doubtless were the Persons excluded from it, whenever any such Law was made; where, tho' I confess he is of Opinion, that the Tenants *in Capite* were at first Barons, equally with the Earls and Greater Barons, and as such were Members of all Parliaments, yet he supposes they were excluded from them long before the Forty ninth of *Henry the Third*, and consequently the *Knights of Shires* must have come thither in their rooms.

I shall conclude with Sir *William Dugdale's* Opinion in his *Origines Juridiciales*, who tho' he was possess'd with the same Notions, as Dr. *Brady* has since taken up, concerning the *Commons* not being summon'd to Parliament until the Forty ninth of *Henry the Third*, yet in the main he alloweth them to have been represented after the same manner, tho' not by Members of their own choice; and he is so far convinc'd by the Authorities of divers Antient Writers, as to grant, that there were Representatives of the *Commons*, who were summon'd to Great Councils, as appears by his own Words in the beginning of that Treatise; where citing the *Saxon Chronicle*, that King *William I.* held his Courts or Councils three times in the Year, with all the Potent Men throughout *England*, viz. Archbishops, Bishops, Abbots, Priors, Earls, Barons and Knights, whence (says he) 'it may be inferr'd, that if those Meetings were his *Communium Concilia*, (as doubtless they were) then did some of those represent the Common People, for that they were represented in his Great Councils, seems clear to me, partly from this Observation of Roger *Hoveden*, that King *William* in the Fourth Year of his Reign, by the Council of his Barons, caused Twelve Wise and Noble *Englishmen* out of each County in *England* to be summon'd, that he might learn from them the Laws and Antient Customs thereof. I have not made use of this Testimony my self, because I am not satisfied whether those Twelve Persons were summon'd to a Great Council as Representatives for the *Commons*, and therefore I shall more insist upon the next Authority, he cites from *Sculcardus*, a Monk of *Westminster* his Chartulary, concerning those Persons that were summon'd by the same King, from several Counties and Cities of *England*, for the Confirmation of the Charter of Privileges, that He had lately granted to the Abbey of *Westminster*, which since I have cited in the beginning of this Discourse, I shall but barely mention here, and only take notice, that this Learned Author has granted enough for my purpose, that the *Commons* appear'd in Parliaments not long after the Conquest.

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THE SECOND PART.

I Shall now go on to the last Part of my intended Design, which is fairly to represent the most considerable Arguments and Authorities that have been produced by Sir *H. Spelman*, Dr. *Brady*, and others, whereby they would make out, that the *Commons* were never *Represented* by Members of their own chusing, before the 49th of *Henry the Third*, and as Dr. *Brady* supposes, were omitted to be any more summon'd, till the 18th of *Edward the First*; but that the *Cities* and *Boroughs* had no *Representatives* there, until the 23d of this King, which, as it is the Doctor's Invention, I shall consider by it self at the end of this Discourse.

I begin with Sir *H. Spelman's* Opinion, as you may find it in his *Glossary, Tit. Parliamentum*, which I shall thus render into *English*; Pag. 451.
 ' That presently after the Conquest, King *William* having distributed
 ' all the Lands of the Kingdom to his Great Men, and other Follow-
 ' ers, as supreme Lord thereof, they were absolutely subject to Him,
 ' as well by Tenure as by Allegiance; so that by the Counsel and
 ' Assent of these He impos'd what Laws He pleas'd upon the whole
 ' Kingdom, and every inferior Tenant was included by the Vote
 ' of his superior Lord, as we are by the *Knights, Citizens*, and
 ' *Burgeses* at this Day; and hence it was, that these Great Men
 ' were called by our Historians, *Primates, Magnates, & Barones Re-*
 ' *gis, & Regni*. He further says, that he had collected above an
 hundred Precedents of the Statutes and Laws made in Great Coun-
 cils and Parliaments from the coming in of *William the First*, to the
 latter end of *Henry the Third* inclusively, yet that *he could never*
there meet with among so great a multitude of Authorities any Passage,
whereby the Commons could be proved present in those Assemblies; and
 then, after some Instances, whereby he would make out what he
 has asserted, he proceeds (as he saith, out of Darkness into Light)
 and placeth the main stress of his Argument for the *Commons* not
 being summon'd to any Council or Parliament until the 49th of
Henry the Third, upon certain Clauses in King *John's* Charter, which
 since it doth not at present fall under the Times immediately after
 the Conquest, I defer the citing of until I come to that King's Reign:
 And in the mean while shall, for the Reader's better Memory, as also
 for my own ease, divide the Observations I shall make from the Au-
 thorities produced by Sir *Henry Spelman* and Dr. *Brady*, according
 to the King's Reigns they treat of, into three distinct Periods; the
 first of which shall be from the beginning of the Reign of *William*
the First, to the end of the Reign of King *Stephen*; the second,
 from the beginning of King *Henry the Second*, unto the end of King
John; the third from the beginning of *Henry the Third*, to the 18th
 and 23d of *Edward the First*; in the former of which Years Dr. B.
L
sup-

Append. to
his Intro-
duct. &c. p.
54, & addn.
ed p. 60.

supposes the *Knights of Shires* to be first again summon'd to Parliament, after about twenty three Years omission, from the 49th of *Henry the Third* ; and in the latter of them he would have the *Citizens* and *Burgeffes* to have been first again summon'd, after about eight and twenty Year's intermission.

To begin with the first of these Periods, Dr. *Brady* in his Catalogue of *English Councils* or Parliaments, hath given us many Authorities, from several Antient *English* Historians, whereby he would prove, that besides the Bishops and Abbots (about whom there is no dispute) the Lay or Temporal *Orders*, mention'd to be summon'd to the great Councils of those Times, were the *Comites*, & *Primates Angliæ*, sometimes comprehended under the word *Barones* in general, sometimes under the words *Principes*, *Proceres*, *Primores* & *Majores Regni*, or else by *Magnates*, and *Optimates Regni*, without any mention of *common* or ordinary Men being ever summon'd to those Assemblies, and that this is evident as far as King *Stephen's* Reign.

I forbear troubling the Reader with a repetition of all the particular Councils cited by Sir *Henry Spelman* and the Doctor ; for I do not deny but that they are truly quoted, tho' not without some partiality ; and therefore I cannot but observe the unfairness of the Doctor's dealing in this Matter, since he takes no notice of any of those Great Councils, where I have already proved in the beginning of this Discourse, that not only the *Tenants in Capite*, but the *Representatives* of *Counties* and *Cities*, as also the *Inferior Military Tenants* were often summon'd ; as particularly to that Great Council, which was held by King *William the First*, in the nineteenth Year of his Reign ; as also to that held by *Henry the First* at his Coronation ; and another held at *Salisbury* in the sixteenth Year of his Reign, when all the Persons of any considerable Estates in *England*, of whatsoever *Lords* they held, were summon'd thither to do Homage, and swear Fealty to Prince *William* his Son ; which Council, tho' the Doctor expressly mentions, yet he cites no more out of *Eadmerus*, and *Florence of Worcester*, than what makes for his purpose, viz. that the *Bishops*, *Earls*, and *Barons*, appear'd at this Council, but is silent as to any Others, altho' those Authors shew plainly, that they were there as constituent Members.

But I shall next proceed to answer those Authorities made use of by the Doctor ; and shall shew, that under the general words above-mention'd, not only the *Earls* and *Barons*, but other *Chief Men* of *England*, whom we may call *Commons* may very well be comprehended : In the first place therefore I must acknowledge, that the Bishops, Abbots, Earls, and Barons, as they had in those Times most of the Lands, so they had consequently the chief governing Power over the Nation ; and therefore their *Inferior Tenants*, as also most of the *Cities* and *Boroughs* of the Kingdom, not then making any considerable Figure either for Riches or Power, it is no wonder, if they are not so often particularly mention'd, and taken notice of by our Antient Historians ; yet however they may very well be comprehended under those general words which the Gentlemen of the other Opinion have given us so large a Catalogue of ; and I have already proved in the *Introduction* to my last Volume,

lume, that as for the words, *Principes, Primates, & Primores*, they signify no more than the Chief or Principal Governours or Magistrates in any City, Nation, or Kingdom, without any consideration of their Nobility by Birth or Degree, Quality or Estate; the like I may say for the word † *Proceres*, which is render'd in our Dictionaries, *the †* *Heads or Principal Men of any City or Commonwealth*, which Term *Dictionary.* may (I suppose) as well take in the *Knights, Citizens, and Burgesſes*, as the *Inferior Tenants in Capite*; and as for the words *Optimates* and *Magnates*, tho' the former of them is render'd in our Dictionaries *Noblemen*; yet it also signifies any Chief Magistrates or Governours; and in *Livy* this word is used to signify certain Great Officers among the *Macedonians*; but that under the last of these words the *Knights of Shires* may be comprehended, I shall prove by several Instances from our Records and Histories: And for the proof of this, see * *Rot. Clause 3 Ed. 2. m. 16. Dorſo.* where you will find this * *P. R. C.* Title, *Inhibitio nē qui Magnates, viz. Comes, Baro, Miles, seu aliqua* *p. 24, 95.* *Notabilis Persona tranſeat ad Partes tranſmarinas*, where the word *Magnates* is apply'd to all Knights in common, as well as the Earls and Barons; and amongst the common Writs of *Michaëlmas-Term*, *Anno 34 Ed. 1.* in the keeping of the Remembrancer of the Treasury of the Exchequer, the *Knights of Shires*, and Barons of *Cinque-Ports*, are called *Magnates*; so also in the Statute 25. *Ed. 3. de Servientibus*, it is there enacted, *Per Affent de les ditz Prelatz, Countes, Barons, & autres Grandes de la dite Comunalte illonques Assemblez.* So likewise in the † old Statutes printed in *French*, in that of the Staple made 27 *Ed. 2.* the *Knights of Shires* are expreſſly call'd *Grantz des Counteés*, which Title you will find given them in sundry other Records of Parliament.

† *Vid. Tottel's Edit. of Statutes.*

And that not only they, but the Principal or Chief Men of the Cities of England, were stil'd *Optimates* and *Magnates*, appears from a Passage in *William of Malmsbury's History*, where the Bishop of *Winchester*, in the Synod held there, speaking of the rich Citizens of London, ſays thus, *Londinenſes qui pro Magnitudine Civitatis Optimates ſunt*: And a little lower the ſame Bishop, in his Speech to the *Londoners* in that very Council, ſays of them, *Non decere ut Londinenſes qui præcipui habebantur in Anglia, ſicut Proceres, &c.* And that they are also often ſtil'd *Magnates*, appears from an ancient Manuscript, called, *De Legibus Antiquis Civitatis*, kept in the Archives of the City of London, where, under *Anno Dom. 1229.* (being the thirteenth of *Henry the Third*) an Act of Common Council was made, *Per omnes Aldermannos & Magnates Civitatis, per Affenſum univerſorum Civium, quod nullo tempore permetterent aliquem Vicecomitem per duos Annos continuos, ſicut prius extiterant*; so likewise in the ſame Book, *Anno Dom. 1242*, and the 29th of *Henry the Third*, mention is made of a Diſſention that then aroſe about the choice of a Sheriff; and the Book ſays, that *Quidam de Vulgo elegerunt Nichol. Bat, ſed Alii per affenſum Majoris, & Magnatum elegerunt Adam de Bentley*; where by *Magnates* are to be underſtood the Chief Men of the City, as *Aldermen* and *Common Councilmen*.

Hiſtor. Novel. Lib. 2. p. 189.

And as for the words *Nobiles* and *Nobilitas*, I have already proved in my former *Introduction*, that thoſe Titles did not antiently belong to the higher Nobility only, ſuch as Earls, Barons, &c.

Rot. Parl. 7.
Rich. 2. Part
1. n. 1.

but also to Knights and Gentlemen, as they do in *France* and *Germany* at this day; and that as low as the Reign of King *Richard the Second*, the *Commons* of *England* in Parliament are stil'd *Noble*, appears by a Speech Recorded in the Rolls of Parliament of the 7th of *Richard the Second*, spoken by Sir *Michael de la Pool*, then Lord Chancellor to the Lords and Commons, which begins thus: *T d'ist vous Messieurs Prelats & Seigneurs Temporelxx & vous, mes Compaignons les Chivalers, & Autres de la Noble Commune de Angleterre*, i. e. I address my self to you, my Lords, the Prelates and Lords Temporal, and to you my Companions, the Knights and others of the *Noble Commons* of *England*; and I have already proved, that by the word *Universa Nobilitas Angliæ*, who met at *Runnemed*e to demand the Great Charter, not only the Earls, Barons, and Tenants *in Capite*, but others, especially Knights and Gentlemen were comprehended; but as for the word *Barones*, since there is a great deal to be said *pro* and *con* concerning the signification of it, as also of the Term *Baronagium* (which is from thence derived) I shall defer speaking any thing to them, until I come to the Great Charter of King *John*, and to the Common Councils or Parliaments held before the 49th of *Henry the Third*, where those words frequently occur, and then I shall have occasion to enquire into the signification of them.

Fol. 409.

In the mean time I shall give you a further confirmation of what I have here laid down, that the *Commons*, as represented in Parliament by *Knights*, *Citizens*, and *Burgeesses*, might be very well comprehended under the words *Principes*, *Proceres*, *Nobiles*, and *Magnates*, before the 49th of *Henry the Third*. I shall prove also, that several Authors, who wrote after the time that the *Commons* must be allow'd to have been summon'd to Parliament) do make use of the same Terms and Phrases to express the *Constituent* Members of it: I shall begin with the Testimony of *Matt. of Westminster*, who, in his *Flores Histor.* under *Anno Dom. 1280*, (being the seventh Year of *Edward the First*) thus reckons up the *Constituent* parts of that Parliament which were then summon'd, *Rex*, *Pontifices*, & *Principes Anglicani convenerunt in unum*, and then enacted that famous Statute of *Mort-main*; and that the *Commons* were to this Parliament summon'd, I think I have already sufficiently made out: And the same Author in the 24th of this King, *sub Anno Dom. 1296*, tells us of a Parliament held at *St. Edmund's-bury*, and that the *Primates ac Magnates Regni* were thither assembled, of whom the King demanded an Aid; and that the *Commons* were present at this Parliament, appears by the Writ of Summons upon the Rolls; so likewise the same Author speaks of the Parliament held at *Westminster* in the 27th of this King, in these Terms, *Dominicâ Secundâ Quadragesimæ citatis Magnatibus Regni apud Westmonasterium*, without any particular mention of the *Commons*; and yet it appears by the same Rolls, that they were also summon'd thither, and comprehended under this general word.

And as for *Wikes's Chronicle*, and the *Annals of Waverly*, tho' we have been beholding to them for divers remarkable Authorities for the proving that the *Representatives* of the *Commons* were present in Parliament during those times, when the Doctor will not allow their being there at all, yet they do sometimes pass them by, with-

without taking any particular notice of them: As for Instance, the Annals of *Waverly*, under the Year 1265, being the 49th of *Henry the Third*, do only mention, that there was no small Assembly of the Prelates and *Proceres Anglie*, or Great Men of *England*, by the Command of the Earl of *Leicester*, who had then the King in his Power, without particularly telling us of what Orders or Degrees of Men these *Proceres* consisted; nor indeed is there one Historian of those Times that gives us any Account of this supposed alteration in the Government, introducing the *Representatives* of the *Commons*, who were summon'd to that Parliament: So that if that Roll, containing the Writs of Summons for the choosing *Knights* of *Shires*, *Citizens*, and *Burgeßes*, with the *Barons* of the *Cinque-Ports*, had happen'd to have been imbezeld or destroy'd, as were many Others both before and after that time, I do not doubt but the Gentlemen whom we oppose, would have had the Ingenuity to assert from this general omission of our Historians, that the *Commons* were not summon'd to Parliament at all, till the first time that they could find any Writs for their summoning enter'd upon the Roll, or else in some loose misapply'd Writ in a Schedule, as *Dr. Brady* hath done for the *Knights* of *Shires*, in the eighteenth Year of *Edward the First*, of which I shall say more in due time.

I now proceed to the next Period, and give you the rest of the Doctor's Authorities, and begin with *Henry the Second*, in whose Reign there were divers Great Councils held, in which the Lay-Orders are comprehended under the words *Proceres* and *Magnates*.

Roger Hoveden, in reciting those that were present at the Council of *Clarendon*, says, that the *Recognition* of the *Constitutions* there made was in the presence of the Bishops, &c. Earls, Barons, & *Procerum Regni*; sometimes the Councils under this King are said to be held with the Bishops and *Magnates* only; but most often, besides the former, (*viz.* the Bishops, &c.) the Earls and Barons are particularly mention'd to have been present at these Great Councils.

But * *Benedictus Abbas*, instead of the *Barones*, mentions a Council held at *London* by this King, with the Earls and *Wiseſt Men* of the Kingdom, the word *Sapientiores*, being put instead of *Barones*: And the same Author speaks of another Great Council held at *Northampton*, before both the *Henry's*, Father and Son, where the Bishops, Earls, and Barons of his † Realm were present: And there also follows this remarkable Clause, *viz.* by the Advice and Consent of King *Henry* his Son, and of the Earls, Barons, Knights, & *Hominum suorum*, i. e. (says *Dr. B.*) of his Tenants *in Capite*, or Military Tenants, King *Henry* made the following Assize, &c. This being one of the most remarkable Authorities the Doctor has produced for his Opinion of Tenants *in Capite*, I shall give you his Comment upon them in his own words, in his * *Animadversions* upon † *Terre sua.* *Mr. A's Jani Anglorum*, &c. *Pag. 203.*

' King *Henry the Second*, when He had caused his Son to be
' crown'd in *A. D.* 1170, and the Earls and Barons to do *Homage*,
' and swear *Faalty* to him (saving the *Homage* and *Faalty* they had
' done, and sworn to Himself) He granted Him the Government
' of the Kingdom in his Absence, and caused a new Seal to be made
' for Him, by which He was to manage it. And it cannot be
' doubted

‘doubted, but that to make Him look more like a King, He assign’d some Earls, and Barons, Knights and other *Military* Men, who attorned Tenants to Him, or some new Earls and Barons were created, as immediate dependants on Him, and the Knights and other *Military* Tenants follow’d, and held on the Lands, Mannors, and Honours, that were assign’d to maintain and support his Court and Kingship, and the King’s *Comites* and *Barones Terræ suæ*, were the Earls of his Kingdom and Barons that held immediately of Him, and were his immediate *Tenants in Capite*: Thus far the Doctor; and from this Relation of Abbot *Benedict*, who lived and wrote in that very time, the Doctor also infers, That the Great Councils or Parliaments of those times, consisted only of the *Tenants in Capite*, or whom besides the King was pleas’d to call, and that He might call such as He pleas’d; and the *Affize* was made in this Great Council concerning the Articles of Inquiry for Justices itinerant, and the Division of the Kingdom into six Parts or Circuits, and appointing Justices for every County.

Having fairly set down the Doctor’s Comment, and Conclusion from this Author, I shall now give you what may be said in answer to it: *First*, supposing it to be granted, that by the Words *Comites* and *Barones*, here twice repeated, are to be understood the King’s Earls and Barons only, yet it does not therefore follow, that either by those or the next Words, *viz. Militum & Hominum suorum*, are to be understood the young King’s Barons, or other *Military* Tenants, as taken distinctly from his Father’s; for tho’ this Author has mention’d them apart, yet there is no occasion for starting any such new Notions as the Doctor does from those Words, *Baronum, Militum, & Hominum suorum*, since this *suorum* relates to old King Henry, as well as *Terræ suæ, & Filii sui*, aforegoing; and * *Radulphus de Diceto*, who also lived and wrote about the same time, speaking of this very Council, only says, that the King according to the Advice of his Son the young King, before the Bishops, Earls, Barons, Knights, and † *Others his Tenants or Subjects*, appointed Justices over six Parts of his Realm, three for each Part: Nor do I see any reason to render the Words, *Militibus & Hominibus suis*, in this as well as the former Author, by Knights and other Tenants *in Capite*, because by the *Milites* may be understood the *Knights of Shires*, and by the *alii Homines sui*, the *Representatives* of *Cities* and *Boroughs*; And the Doctor’s Friends have no reason to find fault with this Construction, since he has expressly asserted, that all the *antient Cities* and *Boroughs*, that sent Members to Parliament, held of the King *in Capite*. Tho’ there is no necessity for this neither; for the Words, *Homines sui*, made use of by the Authors above cited, are not always taken for Tenants *in Capite*, or by *Military* Service, but for Subjects in general, as Sir H. Spelman has shewn in his Glossary, where under the Word *Homo*, he says: *Dicitur præterea de eo qui nullo accepto Feodo nullo Prædio, se in alterius tradidit Militiam, Servitium, Obsequium, Clientelam, & in Genera de omni Famulo, Ministro, Subdito: Breve Henrici II. Justiciariis de Norfolc. Præcipio ut S. Benedictus de Ramesia, ita bene & Libere habeat Socam sacam suas & Homines ejus*, that is, his Tenants by whatsoever Tenure, sent in Pace.

* Col. 1106.

† Et aliis Hominibus suis.

Page 298.

In

In * the Reign of *Richard the First*, the *Constituent Members* of ^{* Vid. Dr B's} his Great Councils are mention'd by our Historians, cited by the Do- ^{Hist. of Great}ctor, under the same Titles, as in *King Henry's* Reign, viz. the ^{Councils and} Archbishops, Bishops, Earls and Barons, to which I shall say nothing ^{Parliaments} here, till I come to speak of this Word *Barones*, and its several sig- ^{at the end of} ^{his Introduction} ^{pag. 58} nifications.

But before I proceed to the Reign of *King John*, I shall look back, and take notice of some considerable Omissions of Great Councils by the Doctor, in the Reign of *Henry the Second*, as particularly the Great Council held at *Gaitington* in the Thirty fourth Year of his Reign, (which I have already mention'd in the former Part of this Discourse) to which were summon'd (as *Roger Hoveden* relates) the Bishops, Earls, Barons, and many others, both *Clerks* and *Laicks*. I have already observed, that by the Words *Many Others*, not only *Tenants in Capite*, but plain *Commoners* may be understood; but tho' the Doctor hath omitted this Council, yet † *Mr. Pryn* in his ^{† Page 537} *Plea for the Lords* hath mention'd it, but not knowing well what to do with the Words, *Multorum Aliorum tam Clericorum quam Laicorum*, he will by no means allow them to mean any *Representatives* of the *Commons* chosen by the People, but certain Persons particularly summon'd and nominated by the King Himself to be Assessors and Collectors of the *Tenths* of all Men's Moveable Goods, which were granted by this Council for the Relief of the *Holy Land*; but there is no ground at all here for this Opinion, since the *Clerks* and *Laicks*, who are afterwards mention'd to be appointed the Collectors of this Tax, are not said to be present at this Council, as were all the *alii Clerici & Laici*, abovemention'd, who did consent to lay this Tax upon Lands and Moveable Goods, as well as the Bishops, Earls and Barons.

The Doctor hath also omitted the Council held by *Richard the First*, which I have already cited, where the *Assize* concerning *Forests*, was made with the Consent of the Archbishops, Bishops, Abbots, Earls, Barons and *Knights*, by which last, at least, the inferior Tenants by *Military Service* are to be understood, since the Tenants *in Capite* were then included under the Barons: 'Tis true, the Doctor in his Answer to *Mr. P.* who hath made use of this Au- ^{Page 222.}thority, will have these *Milites* here mention'd to signify the less Tenants *in Capite* only, but gives no very strong Reasons to prove it, for he is forced to confess, that this Word does comprehend all ^{Page 103.} such as held Lands by *Military Service*, and did Homage and Fealty to those of whom they held their Lands.

Having now shewn you some of the Doctor's Omissions of those Councils, that he thought made against him, I shall in the next place proceed to the Reign of *King John*, in which there is little variation to be found in our Historians, concerning the *Constituent Members* of Great Councils or Parliaments, from what was in his Father's and Brother's Reigns, viz. the Archbishops, Bishops, Earls and Barons, only the Lay-Members are most commonly compr- ^{Matt. Paris} ^{p. 209 239.} ^{247. 255.}hended under the general Title of *Magnates*, until the seventeenth Year of his Reign, when the *Great Charter* was extorted from Him at *Runne-Mead*, which more particularly sets forth the Constituent Members of the Great or Common Councils of the Kingdom in that time,

time, which being transcribed from *Matt. Paris* by Sir *H. Spelman* into his *Glossary*, as also by Dr. *Brady*, I shall here likewise insert, divided into the like Articles or Chapters.

B. A. P. p. 68.
B. A. J. p. 166.
169.

Cap. 14.

Nullum Scutagium, vel Auxilium ponam in Regno Nostro nisi per Commune Concilium Regni nostri, nisi ad Corpus Nostrum redimendum, & ad primogenitum Filium Nostrum Militem faciendum, & ad primogenitam Filiam nostram semel maritandam, & ad hæc non fiat nisi rationabile Auxilium.

15. *Simili modo fiat de Auxiliis de Civitate Londinensi, & Civitas Londinensis habeat omnes Antiquas Libertates & Liberas Consuetudines suas, tam per terras, quam per aquas.*

16. *Præterea volumus, & concedimus quod Omnes aliæ Civitates & Burgi, & Villæ & Barones de Quinque-Portibus, & omnes Portus habeant omnes Liberas Consuetudines suas.*

17. *Et ad habendum Commune Concilium Regni de Auxiliis assidendis (aliter quam in tribus casibus prædictis) & de Scutagiis assidendis submoneri faciemus Archiepiscopos, Episcopos, Abbates, Comites, & Majores Barones Regni singillatim per Literas Nostras.*

18. *Et præterea faciemus submoneri in generali per Vice-Comites & Ballivos nostros Omnes Alios, qui in Capite tenent de Nobis, ad certum diem, & locum & in omnibus literis submonitionis causam submonitionis illius exponemus.*

19. *Et sic facta submonitione, negotium procedat ad diem assignatum, secundum Consilium eorum qui præsentés fuerint, quamvis non Omnes submoniti venerint.*

I shall now for the Instruction of those who are not Masters of the *Latin*, here subjoin a true Translation of these Causes of this Charter.

Cap. 14.

I will lay no *Scutage*, nor Aid upon my Kingdom, but by the *Common Council* thereof, unless it be for the redeeming of our Body, and for the making of our Eldest Son a Knight, and for once marrying our Eldest Daughter; and for this there shall be given a reasonable Aid.

15. After like manner shall be done concerning the Aids of the City of *London*, and the City of *London* shall enjoy all her Antient Liberties and Free Customs, as well by Land as Water.

16. We further will and grant, that all other *Cities*, *Boroughs*, and *Towns*, and the Barons of the *Cinque-Ports*, and all other Ports, shall enjoy all their Liberties and Free Customs.

17. And for holding of the *Common Council* of the Kingdom concerning the assessing of Aids otherwise than in the three Cases aforesaid. And for assessing of *Scutages*, We will cause to be summon'd the Archbishops, Bishops, Abbots, Earls, and Greater Barons of the Kingdom, by our Writs or Letters.

18. And we will further cause to be summon'd in general, by our Sheriffs and Bayliffs, all Others who hold of Us in *Capite*, at a certain day, to wit, at the term of forty Days at least, and at a certain place; and in all our Letters of Summons, we shall declare the Cause of the Summons, and so they being summon'd, the Business shall proceed at the Day assign'd, according to the Advice of such as are present, altho' all that were summon'd shall not come.

By

By this Law, the * Doctor says, the way and manner of *Summons* to great Councils was settled, and made more easie than it was before ; for by a former Writ of 15 *Johannis*, it appears to have been the Custom for the King to write to every one of the *Milites, Fideles*, or Tenants *in Capite*, (which were no formal Barons) particularly as he did to the Barons ; and that the Custom was so, 'tis likewise imply'd in this Establishment of *Summons* for the future, that it should be by particular Writs to every Great Baron, and in general to all Tenants *in Capite*, by Writs directed to the King's Sheriffs and Bayliffs. From hence 'tis evident, (says he) that only the Archbishops, Bishops, Earls, Barons, and Tenants *in Capite*, were usually summon'd to Great Councils ; for if there had been any Others to have been *summon'd*, the like Care would have been taken to settle the way of *Summons* for them, as there was for these. And it is evident from hence likewise, Who were the *Constituent* Parts of the Great Councils and Parliaments in these and the following times, until the Forty ninth of *Henry the Third*, or Eighteenth of *Edward the First*. And the Doctor endeavours to prove the constant Practice and Use of this Law confirm'd by a very clear Record, twenty Years after, in the Reign of *Henry the Third*, from a * Writ of that King directed to the Sheriff of *Suffex*, reciting, * *B. A. P. pag. 68.*
 ' that whereas the Archbishops, Bishops, Abbots, Priors, Earls, Barons, and Others of our Kingdom, which hold of Us *in Capite*,
 ' have granted Us an effectual Aid of their meer good Will, and
 ' without Custom, of every Knight's Fee two Marks, &c. He therefore commands the said Sheriff, at the Order of the Bishop of *Chichester* his Chancellor, to distrain all Knights and Free Tenants, which do hold of Him by *Military Service* in his County, or Bayliwick, for the payment for every Knight's Fee, &c. two Marks to be paid by them to Us. ** Claus. 19 H. 3. m. 8. Dors.*

After the same manner it was written for other Bishops, Abbots, Priors, and Great Men.

From all which the Doctor does here (as also in other places of his Book) infer, that the Bishops, Lords, and less Tenants *in Capite* only then made up the Great Council or Parliament of the Nation, and that all their *Feudatories* or *Military Tenants* were obliged to pay to the Aids they had granted the King, without ever giving their Consents thereunto ; and I must confess, that the Authority of this Charter, together with this Record and some others which the Doctor hath given us in his Answer to Mr. A. are (if taken in this Sense) the strongest Evidence which the Gentlemen have to produce for this their Opinion, and which if it can be fairly answer'd for, the rest of their Authorities and Arguments will prove of no great weight or moment.

In order therefore to the giving the greater Light to what shall be said in answer to these Gentlemen, I must in the first place take notice from Mr. *Selden* in his *Titles of Honour*, (and which I have already mention'd) that before this Charter, the less Tenants *in Capite* are never mention'd, by that Title, in any antient History or Record, they being stil'd in the Constitutions of *Clarendon* by the general Term of *Barons*, as well as the greater ; from whence that learned Author observes, that those less Tenants *in Capite* were by

some Law made in this King's time already excluded from our Great Councils, or Parliaments, properly so called : So that notwithstanding the Doctor's confident Assertions, I cannot think these Clauses in King *John's* Charter, were ever intended for a settled Form of summoning all future Great Councils, and that the Persons therein mention'd were to be the only Constituent Parts or Members of them, until the Forty ninth of *Henry the Third*, and Eighth of *Edward the First*, and the Reasons I have against it are, that all these five Clauses abovemention'd are wholly omitted in all the Confirmations of this Charter by King *Henry the Third*, that are now extant, all that is said concerning *Scutage*, being no more than this, in the Sixty fifth Chapter of this King's Great Charter, *Let Scutage be taken for the future, as it was wont to be taken in the time of King Henry our Grandfather.* Now it is very unlikely, such considerable Clauses as are in King *John's* Charter, should have been omitted in this, whereby so great a Point was to be settled, as what Orders and Degrees of Men should for the future have a perpetual Right to be summon'd, and act in all future Great Councils or Parliaments of the Kingdom; and therefore I shall here again remind you of Dr. *Brady's* own Inference concerning this Omission, (tho' he misapplies it to the Reign of *Edward the First*. * In this Charter (says he) then confirmed, there is no Provision made for any Summons to Great Councils or Parliaments, and the Reason may well be, because the Constitution of Great Councils or Parliaments was lately changed from what it was in King *John's* Reign, and till the Forty ninth of *Henry the Third*, &c. so that let this Omission have happen'd when it would, it is granted by the Doctor to have declared a Change in the Constituent Parts of our Great Councils or Parliaments; now this Omission (notwithstanding what the Doctor has fancied to the contrary) being found in the very first Charters of *Henry the Third*, therefore if the less Tenants *in Capite* had in King *John's* time made a necessary part of the Common or Great Councils of the Kingdom, yet I say, this Omission of them must (by the Doctor's own Confession) shew a Change in the Constitution of Parliaments above fifty Years before the Forty ninth of *Henry the Third*. And besides this negative Proof, I have two other very cogent Reasons, why these less Tenants *in Capite* were never intended to make up the general Common Council of the whole Kingdom; First, because there has not been yet found or produced any such General Writ to the Sheriffs, for the summoning of them to such Councils, either in the Reigns of King *John*, *Henry the Third*, or *Edward the First*, during which time, we might very well expect to find some of those Writs either enter'd on the Close-Rolls, or else among the Bundles or loose Writs of those Reigns; and if the Doctor's Friends will say, that there were such Writs, but they are now lost, together with the Rolls on which they were enter'd, I will then ask these Gentlemen, if this be a good Plea for the loss of the Writs of Summons to the less Tenants *in Capite* during those times, why it may not serve as well for an Answer to a great Objection they make, how it comes to pass, that no Writs of Summons for Knights, Citizens, and Burgeesses, are found before the Forty ninth of *Henry the Third*,

* B. A. 7.

Third, nor after that, till the eighteenth and twenty third of *Edward the First*?

The other reason why the Tenants *in Capite* could not alone constitute the General or Common Council of the whole Kingdom is, from the last Clause in King *Henry the Third's* Great Charter granted in the *Second Year* of his Reign (and is already made use of) wherein it is recited, *That not only the Earls and Barons, but the Knights, Freeholders, and all Others, of the Kingdom, granted the King a Fifteenth of their Moveables* for the confirmation of it, Dr. *Brady* hath used his utmost endeavours to evade the force of the words contain'd in this Clause, by wresting the words *Freeholders*, and *all Others* of the Kingdom, to signify either the Tenants *in Capite*, or rather just nothing at all: But since I have already answer'd those Cavils rather than fair Arguments, I need not again repeat what I have said on that Head, but only desire the Reader, if he is not satisfied, that he would turn back to see what hath been said thereupon.

But to come more close to the rightly explaining the true sense of these Clauses in King *John's* Charter, I must maintain the Distinction which the Learned * Mr. P. hath made in his *Rights of the Commons*, be * P. R. C. between an ordinary *Commune consilium Regni*, which did consist of the *Append. p. 131.* greater and less Tenants *in Capite* alone, and which was chiefly held for the granting and assessing of *Escuage* for themselves and their Inferior Tenants by *Military Service*; and that more General or Common Council of the whole Kingdom, which took in the *Representatives* and the *Commons* also, and was *summon'd* by the King upon certain extraordinary Occasions, such as granting a *General Tax* upon the whole Kingdom, and for making such *Laws* and *Statutes* as should perpetually bind the whole Nation; and for this I think we have *Bracton* on our side, who makes a distinction between these Taxes, and those Services which were paid or perform'd, meerly by reason of *Tenure*; such as were the *Scutages* mention'd in King *John's* Charter, and those other Aids granted by consent of Parliament: His words are these, † *Sunt etiam quedam Communes* † *Bracton, Lib. 2. cap. 16. p. 37.* *Præstationes, quæ servitia non dicuntur, nec de Consuetudine veniunt, nisi cum necessitas intervenerit, vel cum Rex venerit; sicut sunt Hidagia, Corragia, Carvagia, & alia plura de Necessitate & Consensu Comuni totius Regni Introducta*; which I shall thus render into *English*.

There are also certain common Payments or Performances, which are not called Services, neither proceed from Custom, unless in case of necessity, or when the King comes to Parliament; such as are *Hidages*, *Corrages*, and *Carvages*, and several Other things brought in by necessity, and by the *Common Consent* of the whole Kingdom. Which Taxes here mention'd, being General upon all the Lands of the Kingdom, could never be granted by a Council of Tenants *in Capite* alone, since not above half the Kingdom was held of them by *Military Tenure*. And it is very remarkable, that the *Scutagia*, or *Scutage-Taxes* (the Assessing of which made one great part of the business of the Council of the Tenants *in Capite*) are not at all mention'd in this Author, as certainly they would have been, had those Taxes been then imposed by a *Common Council* of the whole

Kingdom ; and this Author wrote in the beginning or middle of the Reign of *Henry the Third*, and so within the time that the Doctor brings his Proofs of the Tenants *in Capite* granting *Scutage-Taxes* for themselves and their Under-Tenants. Now, I cannot see any other reason this Author should have to omit those *Scutages*, but because he very well knew, they were not granted by consent of the *Common Council* or *Parliament* of the whole Kingdom, but by the Tenants *in Capite* alone.

And that even the greatest Tenants *in Capite* could not grant or impose what Taxes they pleased upon all their *Fendataries* that held of them by *Knights-Service*, appears further by a Record which Mr. *Atwood* hath given us in his * *Jani Anglorum*, &c. being a † Writ of King *Edward the First*, directed to the Archbishops, Bishops, Abbots, Priors, Barons, Knights, and all Others his faithful Liege-Men in the County of *Chester*, reciting, that whereas the Prelates, Earls, Barons, and Others of the Kingdom, had given Him a *Fifteenth* of their Moveables, He therefore desires, that they also would of their Good-will and Courtesie grant Him the like Aid or Subsidy : And in the twentieth of this King we find another * Writ to the same purpose, reciting, That whereas the Good Men and Community of the County of *Chester*, as Others of his Kingdom, had graciously granted Him a *Fifteenth* part of all their Moveables, &c. now supposing (as † Dr. *Brady* commonly does) that these *Probi Homines* were the Earl's Tenants *in Capite*, and Tenants by *Military-Service*, what can these words *Communitas Comitatus Cestrie* here signify, but another sort of Men distinct from them, viz. the *Communalty* or *Commons* of that County ? by which it appears, that tho' *Chester* was then *escheated* to the Crown, yet it did still preserve its Antient Privilege of granting Taxes in a *Common-Council* or *Parliament* of that *County-Palatine* ; whereas according to the Doctor's Notion, the King being now their sole Representative needed not to have been beholden to them for these Subsidies ; since, if not as King, yet as Earl of *Chester*, He might have taxed them Himself, which however He thought not fit to do, because He knew it was contrary to the Rights and Privileges of that County, which had ever since the Grant of it to *Hugh Lupus*, by *William the First*, always been taxed by themselves.

And that the *County-Palatine* of *Durham* had the like Privilege of being taxed by themselves, and not by the Bishop, may appear by this remarkable Instance in the eleventh Year of *Edward the First*, when it appears from several Writs on the Close-Roll of that Year, that He being at that time engaged in a War with *Llewellyn*, Prince of *Wales*, in which most of the Earls, Barons, and Tenants *in Capite* of the Kingdom attended Him, and wanting Money, yet not being then able to call a Parliament, He Himself and so many of the Nobility who were then in the Field, issued out Writs for the summoning all the Knights, Freeholders, and Clergymen of *England*, to three distinct Assemblies or Conventions : The *First* of which, for the *South-parts* of *England*, was to be held at *Northampton* : The *Second*, for the *North*, was to meet at *York* : And besides these there was a *Third*, which the Bishop of *Durham* was likewise order'd to summon at that City ; but the Business of them All

was

* *Pag.* 12.

† *Rot. Pat.* 2.
E. 1. m. C.

* *Rot. Pat.* 20.
Ed. 1. m. 6.

† *Glos. p.* 61.

Rot. Wallie
11 Ed. 1. m.
4 dors. see
Pryn's Eccl.
Jurisdic.
Tom. 3. p. 301.

Ibid. p. 303.

was one and the same, viz. to try what Aid in ready Money the Knights, Freeholders, and *Landed Clergy-men* would grant the King towards his War in *Wales*: And the reason why the *County-Palatine* of *Durham* did not join with the rest of the *North* of *England* in the granting this Aid, was, because they then looked upon themselves as a separate Body, that could not be Taxed without their own Consents.

And that this continued down as low as *Edward the Third*, appears * *Rot. Alman.* by a Record of the fourteenth of that King, containing a Letter or *14. Ed. 3. m. 9.* Commission to R. Bishop of *Durham*, reciting, that whereas the Prelates, Earls, Barons, and the *Commons* of *Counties*, had given Him a *Ninth* of their Goods, that therefore the Bishop should convene the *Magnates & Communitatem Libertatis vestre* (to wit of his *County-Palatine*) *ad certum Diem & Locum*, with all convenient speed, and that done, to perswade and excite the said *Magnates* and *Communitas*, to grant the King the like, or a larger Subsidy towards the maintenance of his Wars; which had been altogether in vain, if the Bishop could in those Days have taxed this County at his pleasure. Now, the Bishop of *Durham*, who held this County *in Capite* of the King might certainly have granted what Taxes he pleas'd, for all the People or Inhabitants of that County in the Common Councils or Parliaments of the Kingdom, if the Doctor's Notion of the unlimited Power of the Tenants *in Capite* alone, in granting and imposing Taxes upon the whole Kingdom, had then taken place. And I have been lately credibly informed by the Right Reverend and Learned the Lord Bishop of *Carlisle*, that tho' the *County-Palatine* of *Durham* was bound by the general Statutes of the Kingdom, yet they were never taxed but by themselves, till the 25th Year of King *Charles the Second*, when they first sent *Knights* of *Shires* by an Act then made for that purpose.

Having now shewn the unreasonableness, or rather impossibility of this *Hypothesis*, of the Greater and Smaller Tenants *in Capite* thus taxing the whole Kingdom, I shall next proceed to give you the true sense (as I conceive) of the above-mention'd Clauses of this Charter in King *John*. By the fourteenth Article or Chapter here first cited, the King obliges Himself not to lay any *Scutage* or *Aid* upon the Kingdom, without the consent of the *Common Council* thereof: This being granted on both sides, all the Difficulty that remains, is to understand what this *Common Council* of the Kingdom was, and of what Members it consisted. Sir H. Spelman and the Doctor will needs have it to consist of the greater and less Tenants *in Capite*, and no Others; but I can see no necessity for that, since if this Clause, *Et ad habendum Commune Consilium Regni aliter quàm in tribus casibus prædictis*, be not made to begin the seventeenth Article or Chapter (as Sir H. Spelman and the Doctor read it) but is added to that which went before; then the sense will run thus: *That the City of London, and all other Cities, Boroughs, and Towns, may have and enjoy all their Antient Liberties and Free Customs, as may also all the Barons of the Cinque-Ports, and all other Ports, Et ad habendum Commune Concilium Regni de Auxiliis assidendis, aliter quàm in tribus casibus prædictis, i. e. and to have (or be part of) the Common Council of the Kingdom, for assessing or granting Aids otherwise than*

in the three cases aforesaid : And then the 18th Chapter will begin thus ; *Et de Scutagiis assidendis submoneri faciemus*, &c. the sense of which is, that for the assessing of *Scutages*, the King would cause to be summon'd both the greater and the smaller Tenants *in Capite* there mention'd, according to the manner and form therein prescribed : And from this way of pointing and reading this Charter it plainly appears, that there were two sorts of Councils intended by it, the one Common and General for assessing of *Scutages* as a *Tax*, as also *Other Aids* that were to be granted by the *whole Kingdom* ; the other Council consisting of the greater and less Tenants *in Capite* alone, was for granting and assessing of *Scutages*, either as a *Tax*, or as a *Service* to be paid by the Tenants *in Capite* only.

pag. 131.

And for thus pointing and reading of this Clause, we have not only the printed Copies to justify us, but also the *Original Charters* and other *Manuscripts* ; all which have a full-stop after *prædictis*, and the next Sentence begins with the conjunction *Et*, with an *E* Capital : And Dr. Brady himself must sure have approved of this way of reading and dividing these Clauses, because in his *Appendix* to the first Volume of his Compleat History of *England*, he has not only divided that Clause in the same manner as we do here, but after his *English* Translation of that Article, concerning the *Cities, Boroughs, and Cinque-Ports* enjoying their Liberties (among which their having a *Common Council* of the Kingdom is made One) he adds this Paraphrase, *That the Citizens, Burgeesses, and Cinque-Ports, shall send their Representatives or Commissioners to the Common-Council of the Kingdom for the Assessment of Aids* ; but this being contrary to the Doctor's Opinion, in his Introduction to the *English* History, as also in his Treatise of *Cities and Boroughs*, in both which he will not allow the *Cities and Boroughs* to have sent any *Burgeesses* to Parliament, but only once in the forty ninth of *Henry the Third*, until the twenty third of *Edward the First*, I cannot but believe, that this Translation of the *Magna Charta* of King *John*, was done by some Friend, to save the Doctor the labour, who inserted it into his Work without considering how much it contradicted what he had already written.

pag. 169.

And therefore, without taking any further advantage of it, I shall proceed to shew the difference between these *two Councils* ; the one of which, *viz.* that of the Tenants *in Capite*, from the highest to the lowest, attended the King's Court *ex more*, or according to Custom, three times every Year, *viz.* at *Easter, Whitsontide, and Christmas* ; and this was then call'd *Curia Regis*, the King's Court, where Matters of Right between the King's Tenants *in Capite* were determin'd, and where they themselves were try'd by their Peers, if they had committed any *Felony or Treason against the King and Kingdom* ; and here also *Scutages* were granted and assessed by the Tenants *in Capite*, upon their Inferior Tenants by *Knight's-Service*, yet not as a General Tax, but only upon such as had omitted to attend the King in any Expedition against his Enemies, where they, with their Inferior Tenants, were obliged by their Tenures to assist Him.

But this was not the *Commune Concilium Regni*. (as we now call it) for when the Antient Historians of those Times take notice of the extraordinary meeting of this *Great Council* at the same time with that

that of the Tenants *in Capite*, which was held *ex more* (as I said but now) at the three Great Feasts of the Year, they make use of such Expressions, whereby it may appear, that there was more than the ordinary *Curia* or Court of Tenants *in Capite* then summon'd, and often for the greater Ease and Convenience of his Tenants *in Capite*, and for the saving them a double Trouble of meeting twice, when one Assembly would serve: And as at the former of these Meetings only the Presence and Consent of the greater and less Tenants *in Capite* was necessary; so at the latter, *viz.* the *Common Council* of the Kingdom, not only the King's Barons, that held of him *in Capite*, but also the Barons or inferior Tenants of Bishops, Abbots, and Temporal Lords, and great Tenants *in Capite*, were present either in Person or by their *Representatives*, and so were likewise the Aldermen or Chief Magistrates of Cities, and Boroughs, before they were order'd to elect *two Citizens*, or *two Burgeſſes*, instead of them.

And as these two Councils were different, so likewise are the Expressions of our Historians concerning them; for when the King held his ordinary *Curia*, or Council of Tenants *in Capite*, they are only mention'd under the Title of Archbishops, Bishops, Earls and Barons, to whom are sometimes added the *Milites* or inferior Tenants *in Capite*, when they were no Barons; but when the King made a Union of both these Councils, the Phrases and Expressions of our Historians alter, thus † *Ordericus Vitalis* says, that *Rex aſciivit*, that is, assembled together a Council of the Kingdom; or, *ex præcepto Regis convenerunt*, they met together by the King's Command; or, as *Eadmerus* hath it, *Rex ſanctione ſua adunavit*, the King by his Summons co-united them; or, as * *Florence of Worceſter*, *Regni Nobilitas ſua ſanctione adunata*, which was to shew, that such Councils were not held *ex more*, only by meer Custom, but by the King's particular Summons or Command. This that I have here given you being † Mr. Petyt's Scheme, asserted at large by Mr. Atwood, of the Great or Common Councils of those times, held distinctly from those less Councils of Tenants *in Capite*, I shall now give you Doctor B's Exceptions against it.

In the first place he * saith, that the whole, as Mr. Petyt hath delivered it, is false, precarious, and cannot be proved from any good Authority; but rather on the contrary, that the *Barones Regis & Regni*, were the same persons; and that usually all those Barons, of what quality soever, did repair to the King's Court or Great Council at Christmas, Easter, and Whitsuntide, doth appear to have been the Custom of those Times he speaks of, from the Testimony of the most antient Historians. And for the proof of this, he there cites *Eadmerus*, who indeed mentions divers Great Councils to have been held in his time, where, besides the Ecclesiastical Orders, he only says, the *Primates*, or *Principes*, or *Barones Regni*, were present; where note by the Word *Principes*, the Doctor translates *Princes* or Chief Men of the Nation, whereas I have already proved that by the Words *Primates* and *Principes*, not only great Noblemen or Princes, but any *Chief Men* whatsoever may be signified: But the Doctor thinks he hath given a stronger Instance against Mr. Petyt's Notion, from the same Author, who tells us, that at Christmas following, the

† Fol. 680.

* Ad An. 1129.

† Append. to the Rights of the Com.

p. 131.
Jani Angl.
facies nova &
Jus Angl. ab
Antiquo.
* B. A. P.
p. 113, 114.

Page 67, 69.

ib. pag 109.
the

the Realm of England assembled according to Custom at the King's Court at London; from whence 'tis manifest, that at those times the Common Council of the Kingdom was held; from this also, as well as from the former Instances, he supposes it to be most evident, that the *Barones, Principes, Optimates, & Barones Regni*, did at those three great Feasts, *pro more*, according to Custom, frequent the King's Court.

This Authority, as full as the Doctor thinks it, may (I hope) be very well answer'd, if you will please to consider, that tho' this Author says the Realm of *England* then met at this Great Solemnity *ex more*, yet this is not strictly to be understood as if only the Tenants *in Capite* were then all the *Magnates* or Great Men of the whole Kingdom, since the inferior Barons or Military Tenants had also a very great share in it, besides other *Soccage-Tenants*, yet since the greater and less Tenants *in Capite*, who came to this Feast according to Custom, were then the Chief and most Considerable Men for Riches and Power, they are here stil'd by way of Eminency the whole Kingdom, or Chief Politick Body of it: Nor is *Bracton* himself to be understood so strictly, as if the *Whole Kingdom* then consisted only of *Earldoms* and *Baronies*, for if so, what will become of the Estates of all the less Tenants *in Capite*, who were then no Barons, and therefore could not hold by *Barony*, as also of their inferior Military Tenants, besides all those who held of the King, or other Lords by *Soccage-Tenure*, and were then no small number, as I have already proved, notwithstanding what the Doctor so confidently asserts to the contrary?

Ib. pag. 115.

But to proceed to the other Authority he brings, whereby he would prove that Mr. *Petyt's* Opinion concerning Barons of the Kingdom, who held by *Mesne-Tenure* of other Lords, and in that respect made part of the *Baronage of England*, is altogether false; he lays down as a Ground-work that *William the Conqueror* divided most of the Lands in *England* amongst his Great Followers, to hold them of Him; that He made Earls and Barons of such as He pleas'd; and they and their Descendants held upon the Terms of the first Grant, which was to find so many Horses and Arms, and do such and such Services, &c.

In the next Paragraph he proceeds to shew us, what other sorts of Men there were, among whom his *Conqueror* distributed the rest of the Lands of the Kingdom: Other Lands (says he) were given to other Persons for mean Services, as to be his *Woodwards, Foresters, Huntsmen, Falconers, Cooks, Chamberlains, Goldsmiths, Bayliffs* of Mannors in his own Hands, and many other Officers, which in *Doomesday-Book* are called *Terræ Tantorum Regis*, and sometimes *Servientium Regis*; the rest that follows being not to our purpose, I omit.

But before we proceed further, I cannot but remark the Errors this Author has committed, in affirming that *William the Conqueror* (as he calls Him) divided most of the Lands of *England* among his Followers; which Mistake I have already confuted in the *Introduction* to the last Volume of the General History of *England*, and therefore I need say nothing of that in this place, tho' I deny what the Doctor presently after asserts, that every *Bishop, Earl, and Baron*

Baron of England, properly so call'd, held his Estate of the King by Homage and Fealty, and yet for all that there were divers Others, who were in vulgar acceptation call'd Barons of the Kingdom, who did not hold of the King in Capite, and this he himself confesses in the next Page; but as for those Other Persons whom he has there nam'd, some of whom held Mannors, or small parts or parcels of them, by Petyt-Serjeanty, I would be glad to be satisfied by the Gentlemen of this Opinion in one or two Queries concerning them; the First is, whether all these ordinary sort of Men by their Tenure in Capite were Barons of the Kingdom, or not? if they say they were, then it is evident, that this Title of Baron was a very common thing, and was communicated to very mean and ordinary sort of People, both for Estates and Quality; and I cannot see why a Gentleman who held two or three Mannors of a Bishop, or Temporal Lord, should not deserve the Title of Baron as well as one of these. Secondly, I desire to be satisfied, how these Men were to be taxed by the Common Council of the Kingdom, whether by themselves, appearing there in Person, or by their Representatives; if by the former, I desire these Gentlemen to consider, whether this will not admit of near as great a number of Men of small and inconsiderable Estates into the Common Council of the Kingdom, and consequently (according to the Doctor's Notion) to be Barons of it, as Mr. Petyt doth, in supposing, that the Lords of Mannors, or better sort of Freeholders of whatsoever Tenure, had thereby a Place in that Assembly, either in Person or by their Representatives; but if he will not allow, that these menial Servants of the King above-mention'd, had by the Tenure of their Lands any Right to sit in the Common Council of the Kingdom, I should be then glad to know, how they were represented there, or could be any ways taxed for their Estates, when there were (as the Doctor supposes) no Knights of Shires, for those Men being Tenants in Capite themselves, the other Tenants of the same Order, tho' never so great, could not give Taxes for, and make Laws to oblige them.

The Substance of what the Doctor says in the following Paragraph, is, that whoever held of the Tenants in Capite, by mean Tenure in Military Service, held of those Barons, or Tenants in Capite, by the same or the like Tenure, that they themselves held of the King, which I do not deny, any more than what he says further of these Sub-fendataries, and the Power the King had over them and their Estates.

But the last Lines of this Paragraph do somewhat perplex me, and I believe there is a Fallacy in them, the Words are these, 'We never had any Baronies held by mean Tenures here in England; this, if he (*viz.* Mr. P.) denies, he must deny all History, and our antient Law and Law-Books; and if he grants it, he must confess that every Baron was a Tenant in Capite, and by his own concession he must then be the King's Baron, or *Baro Regis*. In answer to which I think Mr. P. may very safely allow, that tho' there were no Baronies in England, properly so called, but what held of the King in Capite, and consequently no Barons strictly taken, who did not hold by the like Tenure; yet it is not true, that there were therefore no Barons in a larger acceptation; such as were those who held of the Earl

of *Chester* and Bishop of *Durham*, because these as Barons of those *County-Palatines*, made one great part in their *Common Councils* for the granting of *Taxes* and making of *Laws* for themselves and the rest of the People within those Provinces.

But besides these, the Doctor himself grants, that there were *Nominal* or *Titular* Barons many, and such were the Great Tenants to Great Subjects, and then instances in the Barons that held under *Henry de Newburg* Earl of *Warwick*, and *Robert Fitz-Haymon* Earl of *Glocester*, One of whom held ten Knights Fees of the Earl of *Warwick*; and the Doctor further grants at the end of the Paragraph, that several other great Subjects there were, who had Tenants that held five, six, seven, eight, or ten, or more Knights Fees under them, who had the Name and Title of *Barons*, as the Lord of the *Isle of Wight* in that Island, &c.

pag. 70. Col. 2.

And to this I may also add, that Sir *H. Spelman*, in his *Glossary*, under the Word *Baro*, speaking of these Barons of Counties, hath this remarkable Passage, ‘ by this Title there seems to be understood ‘ in antient Writers all sorts of *Feodal Barons*, residing in any County, (to wit) the Chief or Leading Men, and also all *Liberi Tenentes* whatsoever, that were Proprietors of Land, *Anglicè* *Freeholders*, as is already said; but it is to be noted, that these *Freeholders* were not then so mean and ordinary as at this day; ‘ for the Noblemen or Gentlemen had not then parcelled out their ‘ Mannors and Towns into small Estates of Inheritance, but as we ‘ see still in *Ireland*, they kept them in their own hands, and managed ‘ them by hired Servants or Villains.

Ibid.

After this the Doctor proceeds with an insulting Air, and desires ‘ the Gentleman his Antagonist to shew in his next, if he can, where ‘ there was ever any such kind of Tenure, as *Tenura de Regno*; ‘ whether there was ever any Man, that held an Estate *de Regno*? ‘ Whether *Forfeitures* or *Escheats* were to the Kingdom? And whether *Fealty* was sworn, or *Homage* done to the Kingdom? with some other Queries not much to the purpose, which I pretermitt; but to these I think I may answer for that Gentleman, and shew the Impertinency of them: As to the first Query, it may very well be answered, in the Affirmative, that there were such *Barons* of the Kingdom, tho’ not holding of the Kingdom, nor yet immediately of the King; but however they had either by *themselves* or *Representatives* Places in Parliament, and that appears plain enough by the Doctor’s own Concession, who grants, that there were certain Gentlemen of great Estates, commonly call’d *Barons*, and who were so by reason of their Tenures; and if they were in that sense *truly Barons*, and were not the *King’s Barons*, they must then be certainly *Barons of the Kingdom* in general; and that such inferior *Barons* who held of other Lords were also called *Proceres*, i. e. *Noble* or *Great Men*, may appear from the Laws of *Henry the First*, Cap. 25. the Title whereof runs thus, *De Privilegiis Procerum Angliæ*; the Law is, *Si exurgat Placitum inter homines alicujus Baronum, Socnam habentium, tractetur Placitum in Curia Domini sui*, i. e. if a Plea should arise between the Tenants of any of the Barons, having *Socna*, (that is, *Suit of Court*) let that Plea be decided in the Court of his own Lord; where you may observe, that the Inferior
Tenants

Tenants or Lords of Mannors are here called *Proceres* and *Barones*, and from them our ordinary *Court-Barons* took their Names, tho' the Lords were *Feodatary* Tenants to Others. And Mr. *Cambden* in the Introduction to his *Britannia*, first published in *Quarto*, was of the same Opinion, tho' he carries it somewhat further; for speaking of the antient Barons of *England*, he says thus, which I shall translate into *English*, 'but the Word *Baron* may seem to be one of those Titles which time hath render'd of a better signification, for a long time after, (*i. e.* the reputed Conquest) not only Tenants by *Knight's-Service*, but those who were *Freeholders*, and were by the *Saxons* stil'd *Thanes*, began to be called *Barons*; nor was it then of any great Honour; but in tract of time it came to be of that value, that under the name of Baronage of *England*, all the Orders or Estates were comprehended: And tho' I grant, that in the *Polio* Edition of this Work, the Author (because this Passage gave some Exception to the House of *Peers*) has wholly omitted it, and restrains the Title of *Baron* and the Baronage of *England*, only to the higher Nobility there mention'd; yet which of these Editions are most agreeable to the Sense of *Records* and *antient Writers*, I must leave to the Judgment of the impartial Reader. But as the Doctor hath asked his *Antagonist* (as he thinks) many puzzling Questions, so I shall now in my turn make bold to put a Query to those of the Doctor's Opinion, concerning the less Tenants *in Capite*, (whom the Doctor in more places than one, confesses to have been then no Barons) and that is, whether did those hold of the King by Barony, or not? if they will say they did, then why are they not in King *John's* Charter called *Barons*, but other Tenants *in Capite*? and if they will say, they did not hold by Barony, certainly then they were no *Barons*; so that tho' every Baron was a Tenant *in Capite*, yet every Tenant *in Capite* was not a Baron: But if these Gentlemen will still insist, that tho' they were no Barons properly so call'd, yet that by reason of their Tenure of the King *in Capite*, they and none Others had a place in the Great Council of the Kingdom, that is to beg the Question; for the matter in dispute is, whether in those times these less Tenants *in Capite*, together with the greater, made the *Representative* Body of the Kingdom, or Baronage in Parliament, or not? the Doctor affirms it, and Mr. *Petyt* denies it, and gives very good Reasons and Authorities to prove, that the Word *Baron*, and consequently *Baronage*, derived from thence, are not to be confin'd to the Tenants *in Capite* only, which has put the Doctor into a fit of the Spleen; for he will have none to be Barons, unless such as held of the King *in Capite*; but the Falshood of this Proposition plainly appears in this, that the less Tenants *in Capite*, who were at the making of King *John's* Charter, and were no Barons, were yet summon'd to Parliament as well as they; and if so, I cannot see any reason, why other Inferior Tenants, who, as the * Doctor there acknowledges, were Men of great Estates, as enjoying eight or ten Knights-Fees apiece, should not have a Place or Vote in Parliament, rather than a small Tenant *in Capite*, or *Petyt Serjeanty*, who, it may be, had not above half, or a third part of a *Knight's-Fee*. But if these Gentlemen will still urge, that however unreasonable it may seem, the Law or Custom of the

* *Ibid.* p. 116

Kingdom had made it so, and for this, will cite the above-mention'd Clause in that Charter, whereby the less Tenants *in Capite* were to be summon'd by one General Writ to the Sheriff, to appear at the *Common Council* of the Kingdom; in answer to this, I shall make bold to affirm, that according to our reading and pointing of these Clauses in this Charter, it does not appear, that either the greater or less Tenants *in Capite* were to be summon'd to a *Common Council* of the *whole Kingdom*, since after that Clause of the City of London, and all Other Cities and Boroughs having and enjoying their antient Liberties and Free-Customs, it follows, and for their having or being of the *Common Council* of the Kingdom, &c. and the next Clause only recites, that all the Tenants *in Capite* there mention'd, shall be summon'd after the Form therein prescrib'd; for the *granting* or *assessing* of *Scutages*, but doth not say, that they were to be summon'd to do this in a *General Council* of the *whole Kingdom*, but rather the contrary, since their coming to such a Council is here omitted.

* B. A. J.
p. 170.

* Dr. Brady indeed excepts against this Interpretation, and asks Mr. Atwobd his Antagonist, if the Tenants *in Capite* were a great Council of the Kingdom for assessing *Escuage* only? Why was the cause of Summons to be declar'd in every Writ of Summons to the Great Barons and Tenants *in Capite*? If they were only summon'd about *Escuage*, or other ordinary business of course, the cause of Summons need not to have been declar'd, whereas it is there expressly provided, that the King shall in all such Writs declare the cause of that Summons.

In Answer to this, I desire the Reader would remember what we have already allow'd, that tho' the summoning of the Tenants *in Capite*, for the assessing of *Escuage*, either as a Tax or Service, was one main business they were to meet about, yet were they not confin'd to that alone, for they might also meet for the Tryal of any one of their own Members, which was fit to be declar'd in the Writs of Summons, and they might also join with the King in making such *Temporary Laws* or *Ordinances* as might continue in force until a Parliament could be summon'd to confirm them, as we find was practis'd by the King and his *Great Council* of Bishops and Peers in the Reigns of *Edward the Second* and *Third*, when this Council of Tenants *in Capite* was wholly left off: And for this you may see the Titles of many such *Ordinances* in our printed Statute-Books: And again, another main Business of these Tenants *in Capite* might be to give their *Advice* and *Consent* for the making and carrying on of any *Foreign War*, in which they were bound to assist the King in Person, if He required it, or else might grant Him a *Scutage* upon every Knight's Fee for that purpose: And in this case I grant the Doctor's Citations from the Record to be true, that the Tenants *in Capite* did not only grant such *Scutages* for themselves, but also for their Under Tenants by Military Service; but that such Grants were usually made in *full Parliament* we deny, nor does the Writ (cited by the Doctor) to the Sheriff of *Sussex* for the levying of two Marks *Scutage* for the Military Tenants of the Bishop of *Chichester*, at all prove what the Doctor brings it for; for tho' it is there only recited, that the Archbishops, &c. Earls, Barons, and

all

all Others of the Kingdom who held of the King in Capite had graciously granted the King an Aid or *Scutage* of two Marks out of every Knight's Fee; yet it is not there said, that this Grant was made in full Parliament, which methinks it should have been, had this Tax been therein given.

'Tis true, the † Doctor in his Answer to Mr. Petyt, hath cited a † *Ib. p. 149.* Record of the thirtieth of *Edward the First*, that seems more to his purpose; it is a * Writ to the Archbishops, Bishops, &c. Earls, Barons, Knights, and all Others of the County of *Kent*, reciting, that * *Rot. Pat. 30. Ed I. m. 1.* whereas on the first of *June*, in the eighteenth Year of his Reign, the Prelates, Earls, Barons, and other Great Men of his Kingdom had unanimously granted for *Themselves* and the whole Community thereof in full Parliament, Forty Shillings for each *Knight's Fee* throughout the Kingdom, &c. and from thence he infers, that in the eighteenth Year of this King the Tenants in Capite did not only represent the whole Community of the Realm in Parliament, but were also the Sole Grantors of this *Scutage*, for *Themselves* and All Others of the Kingdom, and consequently, that they Alone were the constituent Members of this Parliament, as they had been of all other Great Councils or Parliaments, except that of the forty ninth of *Henry the Third*. I have in part already answer'd one of the Doctor's Inferences from this Record concerning the Tenants in Capite then making the whole Community of the Kingdom; but since in the place above-cited he makes use of it for another purpose, viz. to prove, that the *Knights of Shires* were not summon'd to this Parliament until after this *Scutage* was given: I shall defer the further Answer to what the Doctor infers from this Record, till I come to consider the rest of his Arguments upon the same Head, and hope then I shall be able to prove, that he was very much mistaken in that matter.

In the mean while I shall proceed to the third Period, and give you some other of the Doctor's Authorities, that during all the Reign of *Henry the Third* (excepting his forty ninth Year) the Tenants in Capite Alone constituted all the Great Councils or Parliaments of the Kingdom; but as for the Instances he has given us from *Matt. Paris* in the beginning of this King's Reign, to prove, that none but the Tenants in Capite were present in all those Great Councils or Parliaments, till the time above-mention'd; some of them are indeed too general to draw any certain Conclusions from. The Lay-^{Vid. Dr. B's Account of Great Councils or Parliaments Append. to his Introduction. p. 59. 60.} Members of those Great Councils or Parliaments (for as to the Ecclesiastical I shall not concern my self) are commonly mention'd by this Author under the general Terms of *Magnates*, *Proceres*, or else *Comites & Barones*, all which Titles (except the *Comites*) I have shewn do signify another Order of Men, besides the Tenants in Capite, and some of those Authorities which the Doctor hath made use of from * *Matt. Paris*, do make against him; as for Instance, that Parliament or Treaty, which under *A. D. 1224*, he mentions to be held on the Octaves of the *Holy Trinity*, at *Northampton*, where the King met and treated with the Archbishops, Bishops, Earls, Barons, and Many Others; here, by *Many Others*, must be meant the Representatives of the Commons, since (according to the Doctor's vain Conceit) all the Tenants in Capite are comprehended under the

Word

Word *Barons*, or else they were not mention'd at all ; but if those of his Opinion will insist, that by these *Multis Aliis*, the less Tenants *in Capite* are to be understood, as distinct from the *Barons*, I desire then that they would satisfy me, whether the Word *Barones* does in other places of this Author include the whole *Baronage* of *England*, (of which the less Tenants *in Capite* made a considerable part) and if it does, why the same single Word shall not also comprehend them in this and other places ? for otherwise the Word *Barones* would be of a very various and uncertain signification, and must sometimes mean the *Great Barons alone*, as in this Instance, and at other times must also take in all the other less Tenants *in Capite*, as the Passage in the Record or Historian will best suit the present turn, and the *Hypothesis* they are to maintain.

* *Ib.* p. 323.

But to proceed to the Year 1225, the same * Author tells us, King Henry held his Court at *Christmas*, where the *Clergy* and *People* were present, with the *Great Men of the Kingdom*, and at this Solemnity, there was granted the King a *Fifteenth* of all Moveables : This Court being held at *Christmas*, when the Tenants *in Capite* were wont to meet according to Custom, the Doctor does suppose makes for his Opinion, and that by the *Magnates* are to be understood the Bishops, Lords, and other Tenants *in Capite*, and by *Clerus* and *Populus* the Clergy and Laity in general ; but I have already shewn the Absurdity of this Interpretation, and that if the *Magnates* comprehended all the *Lay-Orders*, as low as to the less Tenants *in Capite*, then the Word *Populus* would be altogether needless and impertinent ; since it would but be only a ridiculous Repetition of those *Orders* that were already recited : Nor can the Doctor ever make it out, that by the Word *Populus* the less Tenants *in Capite* alone are to be understood from any antient Historian whatsoever.

Ib. p. 367.

I confess the † Parliament or Treaty that was held *A. D.* 1230, seems *prima facie* to make more for his Opinion, when (as *Matt. Paris* relates) on the *Kalends of February* the King meeting with the Prelates and other *Great Men* of the Kingdom at *Westminster*, He required of them a *Scutage* of *Three Marks* of every *Knight's-Fee* of all who held *Baronies*, as well *Laicks* as *Prelates* : But in answer hereto I have one thing to offer, that I do not take this to be a *General Council* of the *Whole Kingdom*, but only a *particular Colloquy* or Treaty with the Greater Tenants *in Capite* alone, in which no others of the Kingdom were at all concern'd ; nor is it call'd by this Author a *General Council*, or *Parliament*, but only a *Colloquy* with the *Great Men* above-mention'd, and extends only to those who held *whole Baronies*, which the less Tenants did not.

* *Ib.* p. 59.

† *Matt. Paris*
p. 435.

But I will give you two or three other Councils mention'd in this Author, and cited by the * Doctor, which look somewhat favourably towards his Opinion ; the *First* is, under † *A. D.* 1237. being the Twenty first Year of this King, when He held his *Christmas Court* at *Winchester* ; and from thence presently after sent his Writs thro' all the Borders of *England*, commanding All that belong'd to the Kingdom of *England*, viz. Archbishops, Bishops, Abbots, *Install'd Priors*, Earls and Barons, that without fail they should meet at *London* on the Octaves of *Epiphany* (i. e. the thirteenth of *January*) to treat about those Publick Affairs, which concern'd the whole Kingdom ;

dom; the Great Men yielded ready Obedience to this *Summons*, believing some great and difficult Affairs were to be transacted, and accordingly on St. Hilary's day an *infinite number* of Nobility, (that is) the * *whole Body of the Kingdom*, met at London; from whence the Doctor does infer, that if the Parties above-mention'd made up the *whole Body* of the Kingdom, there could be certainly no *Representatives* of the *Commons* by *Knights*, *Citizens*, and *Burgeffes*, in this Parliament, the lowest Order here set down being that of the *Barons*.

* Regni Totalis Universitas.

So likewise *An. Dom. 1242*, * the King writ to all his *Great Men* ^{ib. p. 579} of *England*, viz. *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Earls* and *Barons*, streightly commanding them, that they should All in general meet at *London* on Thursday before the *Purification* of the Blessed Virgin, to treat of the arduous Affairs of the Kingdom, that would admit of no delay. And then at the day appointed, the Nobility of all *England*, as well Prelates as *Earls* and *Barons*, met at *London* according to the King's *Summons*; then He sent to his Commissioners, viz. the *Archbishop of York*, *Earl Richard* (the King's Brother,) and *Walter*, *Provost of Beverly*, to declare his Intentions, and ask their Advice; whereupon the said *Bishops*, *Abbots*, *Priors*, *Earls* and *Barons*, gave their Advice to the King concerning his intended War with *France*; and when the said *Great Men* the Commissioners, or Messengers, had reported that Answer to the King, they returned to the *Baronage*, and told them that they had only in part given the King a sufficient Answer, &c. ^{ib. p. 580.}

From whence Dr. Brady takes occasion to ask his Antagonist, what clearer Proof there can be, that all the *Bishops*, *Abbots* and *Priors*, and all the *Earls* and *Barons* of *England*, were here the *only Baronage* of *England*, for they were the only Persons that met at *Westminster* by the King's Writ, they were the only Persons who receiv'd the Message from the King's Commissioners, and consulted about it, they were the only Persons who gave their Advice upon this Message, and they were the only Persons who are here called the *Baronage*, to whom the *Great Men* the King's solemn Messengers (or Commissioners) return'd, after they had reported their Answer to the King, and told them it was but in part sufficient. ^{B. A. P. pag. 108, 109.}

And who (as he supposes) were then the only *Magnates* or *Great Men* of the whole Kingdom, as particularly expressed by the same † Author under *A.D. 1244*. where he reckons them up in the very same † ^{ib. p. 693.} manner and order of Words, as they were in the Parliament immediately foregoing, viz. the *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Earls* and *Barons*. But the Doctor's most remarkable Authority is under the Year 1246. when in *Mid-lent*, on the day on which the Hymn *Letare Jerusalem* is sung, there met at *London*, being call'd by the King's Edict, *Parliamentum Generalissimum*, a most General Parliament, the whole Kingdom of *England*, consisting of the whole Nobility, to wit, the Prelates, as well *Abbots* and *Priors*, as *Bishops*, with the *Earls* and *Barons*, where he observes there is *no Commons* at all mention'd in this, most *General Parliament*, no more than in those foregoing, tho' all the *Great Men* of the Kingdom were summon'd to them. ^{ib. p. 696.}

Since

Since I have put together the most considerable Authorities, that the Doctor hath to produce from *Matt. Paris*, to prove that there were no *Representatives* of the *Commons* in any of these Parliaments, I shall now return one General Answer to all these four last Quotations : And as to the first of them, I observe, that by the *Infinite Multitude of Noblemen*, or whole Body of the Kingdom, who met at the Parliament at *Winchester*, there must certainly be more Persons meant than those expressly mention'd in this Author, for taking in the Bishops, Abbots, Priors, that held of the King *in Capite*, together with the Earls and Barons properly so call'd, they could not amount in all to three hundred Persons ; and if it be insisted on, that the less Tenants *in Capite* are to be taken into the number of the Barons, I cannot allow of it, for had they been so comprehended, *Matt. Paris* would in some place or other have mention'd them particularly ; but I cannot see any reason, if they are not call'd *Barons* in King *John's* Charter, and were known at this time not to be so, why this Author should not give them that Title in all these places : But suppose we shou'd admit for Discourse sake, that under the Word *Barones*, these less Tenants *in Capite* are also included, they would not have made at the most above seven or eight hundred Persons more, and tho' these shou'd be added to the number of the Prelates and Temporal Lords, they would have made not above a thousand in all, which would fall far short of the *infinite number of Noblemen* mention'd by our Author, as present at this Parliament ; and therefore to make up this *Infinite Multitude*, if all the Tenants *in Capite* appear'd there in Person, their Inferior Military Tenants must likewise have attended them, as they did at the Great Council or Parliament, when *Magna Charta* was first granted ; and, as this Author also assures us, they did at that Great Parliament at *Oxford*, when those famous *Provisions* or Statutes (which took their Name from that Place) were enacted ; but then the consequence will be, that supposing they were there, they must also make up the *totalis Nobilium Universitas*, or whole Body of Nobility mention'd by this Author, and consequently then it did not consist of the Bishops, Lords, and Tenants *in Capite* alone, as the Doctor conceives.

As for the other three Quotations, which are brought to prove, that the *Magnates* or Great Men of the Kingdom then only consisted of the Orders there mention'd, the lowest of which were the *Barons*, I think I may satisfy any indifferent Reader about it, by offering the Gentlemen that maintain this Opinion, this short Dilemma ; either the Word *Barons* there mention'd by *Matt. Paris*, includes the less Tenants *in Capite* as well as the greater, or it does not ; if it does include them, then it is evident, that those, who were *no Barons* of the Kingdom, had equal Places with them who were truly and properly so ; and then I can see no reason why the *Barons* of Counties, or Lords of Mannors, tho' Tenants by Military Service to the greater and smaller Tenants *in Capite*, (or at least their *Representatives*) should not have had Places in Parliament as well as the Tenants *in Capite* themselves, and that for the reason already given, of the great share they had in the Property of the Lands of the Nation, being much more than what most of the smaller

smaller Tenants *in Capite* at that time enjoy'd; but if these inferior Tenants *in Capite* be deny'd to have been Members of these Parliaments, then it will follow, that these were no *Common Councils* or *Parliaments*, according to the Form of King *John's* Charter.

I shall now proceed to the rest of the Authorities which the Do.^{B. A. P.} Doctor has brought to prove, that the * *University of England* (as he ^{p. 103. 104.} calls it) or *Representative Body* of the Kingdom in Parliament, consisted only of the Earls, Barons, and Tenants *in Capite*; and for this we are to look back to *A. D.* 1245, when *Matt. Paris* tells us, ^{Regni.} that King *Henry* began to detest the insatiable Avarice of the Court of *Rome*, and the injurious Encroachments, and unlawful Rapines made by Her upon the whole Kingdom, and the Church also; and therefore (says he) there was an elegant Epistle then compos'd by the *University* of the Kingdom, which sets forth the execrable Papal Extortions, and intolerable Exactions of his *Legates*, and of divers *Priests* executing an unheard of Power; with which Epistle certain Noble and Discreet Men were sent to the Council at *Lyons* to make complaint thereof, and especially of the Exactions of a *Tribute*, unto which the *University* of the Kingdom never gave their Consents; there were therefore chosen for that purpose, and sent in the name of the *University* of *England* to the said Council, Earl *Roger Bigod*, with four other Barons there named, and Mr. *William Powerick*, who was their Secretary; and then the Doctor proceeds to give an Account, that the Barons intended to meet at a great Tourneament at *Luton* and *Dunstable*, which was forbid by the King; however, *Fulk Fitz-Warin* was sent on behalf of this *University* of *England* to Master *Martin* the Pope's Clerk (who was his Legate and Instrument of the great Exactions aforesaid) but I leave the Reader to consult the * Doctor, or rather the Author himself, for the parti- ^{* B. A. P. pag. 104.} culars of this Story; the Sum of which is, that when *Fulk* had commanded this Clerk or Nuncio immediately to be gone out of *England*; he thereupon asking at whose Command; *Fulk* presently answer'd, at that of the *University* or Body of Military Men, that lately appear'd at *Luton* and *Dunstable*, who do by me lay upon you this Injunction; and then threaten'd, if he did not obey it, he should be cut in pieces; whereupon Mr. *Martin* being much terrified at this rough Message, went immediately to the King, and asked Him, whether it was done by his Authority; the King told him no, He was not the Author of any such thing, *but my Barons* (saith He) *can scarce contain themselves from an Insurrection against Me, for that I have so long suffer'd your Depredations and Injuries in my Kingdom.*

From whence the * Doctor observes, that this Story makes it ^{* ib. p. 105.} plain, who were then the *Universitas Regni* (to wit) the Barons, or the *Universitas Armatorum*, the *University* of Armed or Military Men, met to hold a Tourneament, and who were those whom the King calls *his Barons*. Now, whether the Doctor hath made out what he is to prove by both these Relations, I shall leave it to the unprejudiced Reader.

In the first, the *University* of *England* chose four Commissioners to go to the Pope, who were all Great Barons; does it therefore follow, that none besides the Great Barons of the Kingdom could

chuse them? By this way of arguing, none of the smaller Tenants *in Capite* had any hand in this Choice, nor were part of the *University* of the Kingdom, because none but Barons and Great Tenants *in Capite* were sent to represent the Body of the Kingdom at the Council of *Lyons*; and supposing the *Representatives* of the *Commons* to have been present when these *four Commissioners* were chosen, could they not have pitched upon, four of the wisest and greatest Lords of *England*, on the behalf of themselves and the whole Kingdom, tho' they did not think any of their own Order good enough to go on an Errand of so great an Importance?

As for the second part of this Relation, it is certain that *Fulk Fitz-Warin* was sent on the behalf of the *University* of the whole Kingdom, to Mr. *Martin* the Pope's Clerk or *Nuncio*; and who this *University* was, appears by what follows, that they were the *University of Military or Armed Men*, who lately appear'd at *Luton* and *Dunstable*; where you may note, that the Author does not here call this Body the *University* of the Earls and Barons, and Tenants *in Capite*, but only the *University* of Military Men in general; that is, the Inferior Tenants by Knight's Service, as also those of Estates who held in free *Socage*, might be there in Arms, and join in this Message to the Pope's Clerk, unless the Doctor can prove, which will be very hard, that none but the Tenants *in Capite* were admitted to be Parties at this general Tourneament; but if other Military Men were there (as is most likely) they also made a part of this *University* or General Body of the Kingdom, and these are they whom the King calls his *Barons*, as well as the rest, as the Doctor himself here grants in his Observation on this Story.

But that the Prelates, Earls, and Barons, with the less Tenants *in Capite*, could not then make this *Common University*, or general Body of the Kingdom, appears from the Authority the * Doctor has given us from the same Hand, under the Year 1644, when the Earls, and Barons declared to the Bishops, that they could do nothing as to the granting the King an Aid, without the consent of the *Common University* of the Kingdom, and then follow the Names of those Bishops and Noblemen, who were by *Common Consent* of the whole Body chosen for that purpose; which Answer of the Earls and Barons, to the Bishops and other Prelates, had been very impertinent, if they alone, together with the Tenants *in Capite*, (who then sat with them in the same House, whenever they were assembled together) had been the *whole University* or Body of the Kingdom, as I have already proved in the former part of this Discourse.

But since I have said enough in the precedent part of this Discourse, to prove, that the *University* (as the Doctor terms it) or *Politick Body* of the Kingdom, consisted of another Body of Men, than the Bishops, Lords, and Tenants *in Capite*; and also that the words *Communitas Regni*, or as in *French*, *Le Commune de la Terre*, which is the same with the *Universitas Regni* abovemention'd, did also signifie not only the Earls and Barons, but the *Representatives* of the *Commons* also, I shall say no more upon those Heads.

Thus having given you the Doctor's Reasons and Authorities, why he supposes that the great and small Tenants *in Capite* were the
only

only *Representatives* of the Nation in the *Great Councils* or *Parliaments* of those Times, till the Forty ninth of *Henry the Third*, and that before that the *Commons* had no *Representatives* there; I shall in the next place proceed with the rest of my Authorities, whereby I hope to make it clear, that there was a separate or distinct Council of Tenants *in Capite*, both great and small, different from that of the Common or General Council of the Kingdom, summon'd upon special occasions. And this I shall do by two several Methods, or ways of Proof; the first of which shall be from *Antient Records*, and the Other from *Historians*, either in *Print* or *Manuscript*. To begin with the former, I shall shew, that not only the *Temporal Barons* and Tenants *in Capite* did often meet and hold distinct Councils, but that also the *Ecclesiastical Tenants* in *Capite* did likewise sometimes meet at the same time, and for the same purpose, *viz.* to grant the King a *Scutage* out of the Lay-Fees which they held of Him; which will appear by this * Record on the Patent Roll of the Fifteenth of *Henry the Third*, which is in *English* thus, when We (i. e. the King) requir'd of the Prelates of *England*, that they should grant Us an Aid for Our great necessity, and the Bishops, Abbots, Abbeses, Priors, Prioreses, who held of Us *in Capite*, have liberally granted Us such an Aid, *viz.* of every of their *Knight's Fees*, Forty Shillings, for which they were answerable to the King, when they do Him *Knight's Service*, &c. where you may observe, that not only the Bishops and Abbots who held *in Capite*, but the Abbeses and Prioreses also who held of the King *in Capite*, join'd in this *Scutage*; and since it cannot be suppos'd that these Abbeses and Prioreses could leave their Houses and appear in Person at such Meetings, they must be suppos'd to do it by their *Oeconomists* or *Stewards*, as their lawful Proxies in those Assemblies; which, tho' they were not *Great Councils* or *Parliaments*, yet requir'd the Consent of the major part of the Tenants *in Capite*, either by *Themselves* or their *Representatives*: But that this was a Council consisting of Tenants *in Capite* only, may appear by another * Record of the Forty second of this King, wherein it is recited, that whereas it was provided by a *Common Council* of the *Barons* and *Other Great Men*, who had been with the King in *Wales*; and that He Himself, and they who had done their Service there, were therefore to receive their *Scutage* (to wit) Forty Shillings of every *Scute* or Fee, for his Army in *Wales*, in the Forty first Year of his Reign; He therefore commands the Barons of his *Exchequer*, that they should cause to levy the said *Scutage* on all *Knight's Fees* that were held of Him *in Capite*, and upon *Wards* being in the King's hand, except the Fees of those who had his Writs for receiving their own *Scutage*; from which Record it appears, that this was only a *Common Council* of Tenants *in Capite*, who had attended on the King, and done their Service in this *Welsh Expedition*, and concern'd none else but such Tenants by *Knight's Service*, and their *Military Tenants*, who had fail'd to do their Service, and is indeed such a Tax as is expressly reserved by that Clause of King *John's Charter* before-cited, whereby *Scutage* is to be assessed by All the Tenants *in Capite*.

But when a general Tax or Aid was granted by the whole Kingdom, the Stile of these Councils runs much otherwise, as appears by

* Rot. Pat. 15
H. 3. m. 3.
See it printed
in Latin in
Mr. A's *Jani
Anglorum*, &c.
pag. 239.

* Inter Com-
mun. de Term.
Sancti Mich.
Anno 42. H. 3.
Rot. 4. de
Scutag. Le-
wand. cited
at large in
Jani Anglorum
p. 240.

* Rot. Claus.
4. H. 3. m. 5.
cited in Jani
Angl. p. 241.

the Close-Roll of the Fourteenth of this King, where it is recited in the Record, that * *Omnes Magnates & Fideles totius Regni nostri*, all the Great Men and Faithful Subjects of the whole Kingdom had granted the King *de qualibet Carucatâ duos solidos*, i. e. that it hence appears, that this was a Grant of Carvage, which not being a *Scutage-Service*, nor yet a *Scutage-Tax*, was therefore to be granted by the *Common Council* of the whole Kingdom, which being assessed not only upon Tenants *in Capite*, and their Feudatary Tenants, but upon each Plough-Land of the whole Kingdom, must have been granted (as I have already proved out of *Bracton*, speaking of Carvage) *de consensu & communi consilio totius Regni*; for otherwise the Tenants *in Capite* could never have charged all the Lands of England, which were not held of them by Military Tenure.

Rot. Claus. 16.
H. 3. m. 2.
Dorset. cited
ibid. p. 242.

* B. A. J
p. 221.

But I shall yet make it plainer by another Record of this King, in these words, which being translated runs thus; ‘The King to the Sheriff of *Devonshire*, Greeting, Know ye, that the Archbishops, Bishops, Abbots, Priors, and Clerks, having Lands not belonging to their Churches, as also the Earls, Barons, Knights, Freemen, and *Villani*, (i. e. *Townsmen and Villagers*) of our Kingdom have granted Us for an Aid a *Fortieth* part of their Moveables. * Dr. Brady hath also made use of a like Writ, almost in the same words, of the Twenty first of this King, when the same Parties last mention’d, granted Him an Aid of a *Thirtieth* part of all their Moveables; all the difference between them is, that in this last Record the Earls, Barons, Knights, and Freemen grant this *pro se & suis Villanis*, which the Doctor translates *Villains*, yet I think it rather signifies Villagers or Farmers by *Socage Services*, since *Villains* having no Property could pay no Taxes; however, this is plain, that this Grant being made by all the Freemen of the Kingdom, must have been granted in another Council than that of Tenants *in Capite*.

† Sub Effigie
Patriar.
B. 11. fol. 20.

And to let you see that the Antient Manuscript Chronicles of this Age, give the same sense to the Expressions of these Records, and that in the same Terms, I shall give you a remarkable Passage, which a Friend of mine took out of a † Manuscript called, *Chronica Monasterii de Hagney* in the Cottonian Library, as antient as the Times we are now treating of; the words are these, *Anno 17 Henrici Regis quarti*; (where note, that the Year is mistaken for the 16th, but the King is the same *Henry the Third* being often called the *Fourth* in respect to King Henry, Son to Henry the Second :) *The same King received from the Archbishops, Bishops, Abbots, Priors, and Clerks, having Lands which did not belong to their Churches; as also from the Earls, Barons, Knights, and Villani, Townsmen and Villagers of the Kingdom of England, a Fortieth part of all their Moveables for an Aid:* And to let you see that the Author here makes a difference between the Great

* Note, This is the Fifteenth already mention’d to have been granted for the Confirmation of *Magna Charta* by this King, in the ninth Year of his Reign.

Men of the Kingdom and Barons, he proceeds thus; *as He had also done in the eighth, or rather ninth Year of his Reign, in which, by the common Assent and Good-will of his Great Men, and of all other his Lay-Subjects of the Kingdom, He received a * Fifteenth part of all Moveable Goods; where supposing in Dr. Brady’s own sense, that by the Magnates here mention’d, the Lords (and if he pleases) the Tenants in Capite are to be understood, yet by the Alii Laici, all the Other Lay-Subjects, of what Degree soever, must be understood,* and

and are the same with the *Liberi Homines* and *Villani** mention'd in the *Record*, who join'd in the giving of this Tax by their *Representatives* in Parliament.

I know † Dr. *Brady* endeavours to evade the Force of this *Re-* † B. A. J. cord, by making these *Liberi Homines* or *Freemen*, therein mention'd, p. 220. to signify only such Tenants *in Capite* as were not *Knights* in a strict sense; and for this refers us to his *Glossary*: But whoever will look there, under the Title of *Liberi Homines*, and *Liberi Tenentes*, will find, that from the very Authorities he there cites, these Words *Liberi Homines* do not only signify his Tenants *in Capite*, but also all other *Free* or *Military Tenants* whatsoever; and those Words must be also more comprehensive, and extend to all such Tenants as held Lands by *Socage-Tenure*, and such as were Tenants of the King by *Fee-Farm* on Rent certain, as also all Tenants in *Petyt Serjeanty* and *Gavelkind*, which taken altogether, were no small number, as I have already proved.

But since the * Doctor hath a few leaves before endeavour'd to prove from certain *Records* patch'd together, that the Tenants *in Capite* granted and assessed all Aids or Publick Taxes upon all Persons of the Kingdom, whether they held by *Knight's-Service* or otherwise, that were able to pay; I will here set down the effect of those Records. lb. pag. 169

The *First* of which is on the Patent Rolls of the Eighth and Ninth of King *John*, wherein it was provided and granted by the M. 3. Dors. ' *Common Advice and Assent* of his Council at *Oxon*, that for the defence of his Kingdom, and the Recovery of his Right, every Layman of all *England*, under whose Fee soever he be, who hath Rents or Goods in *England*, should give Him for an Aid of each † Marks † Latine Mercat. worth of his Yearly Rent, *Twelve Pence*, and of each Moveable cata. ' *Chattle*, which he had on the Octaves of the Blessed *Virgin Mary*, ' (to wit at the end of the said Council) *Twelve Pence*. Dated at *Northampton* the eighth of *February*.

The next Record is cited by the * Doctor to shew us, who were * Ibid. of this *Common Council* above-mention'd, that granted that Aid; and ' it is a † Writ on the same Roll, directed to the Archdeacon and † N. 2. ' Official of the Bishoprick of *Canterbury*, reciting, that whereas the ' *Archbishops*, *Bishops*, *Abbots*, *Priors*, and *Great Men* of his Kingdom had granted Him an Aid for the Defence and Recovery of ' his Territories, He therefore beseeches and exhorts the Clergy of ' that Diocese, that they would grant Him such an Aid, as should ' make Him have cause to return them thanks.

The *Third* is, the King's * Writ to the Sheriff of *Kent*, reciting, * Rot. Claus. ' that whereas it was lately provided, upon the urgent Necessity of 7 H. 3. m. 23 ' the *Holy Land*, and also granted before Him and his Council, the Dors. ' *Archbishop* of *Canterbury*, the *Bishops*, *Earls*, and *Great Men* being ' present, by the *Common Consent* of *All of them*, that every *Earl* should ' give to the King of *Jerusalem* in Aid or Assistance of the said Land, ' *Three Marks*, a *Baron One Mark*, a *Knight Twelve Pence*, every *Far-* ' mer, or *Man* that tilleth Land *One Penny*, and every one that hath ' not Land, having *Chattels*, to the value of half a *Mark*, as well ' within *Cities* and *Boroughs*, as without, *One Penny*. From these two last Records, the Force of which lie in the Word *Magnates*, the Great

Great Men, I shall by and by prove, that under that Word *Knights of Shires* may be very well comprehended, but I will first give you the rest of the Doctor's Quotations.

* *Ib. p. 170.* The next Authority the * Doctor cites, is of a *Fifteenth* part of all the Moveables of *England*, as well of Ecclesiasticks as Laicks, which was given to *Henry the Third*, in the Ninth Year of his Reign, by the Archbishops, Bishops, Earls, Barons, Abbots, and Priors only, for the confirming of King *John's* Charter; and I shall only say this to it at present, that it plainly shews what Mistakes Men, otherwise learned and diligent, may run into, by wholly trusting to *Historians*, without first consulting *Records* and other Publick Instruments; for if the Doctor had been but pleas'd to have consulted any *Printed* or *Manuscript* Copy of the next Charter of the Ninth of *Henry the Third*, he might have there found at the conclusion of it, that not only the Parties here recited, but the *Knights, Freeholders*, and *all Others of the Kingdom*, had their share in the granting of this *Fifteenth*. But I am sensible this would have no influence upon the Doctor, for he is resolved to have the *Liberi Tenentes* and *Omnes de Regno* there mention'd, to signify no Others than *Tenants in Capite*; but with what Reason and Probability he so positively asserts this, I shall leave to the Reader's more unbiass'd Consideration, who will give himself the leisure to peruse what I have already said in the former part of this Discourse, in answer to the forced Interpretations the Doctor hath given of those Words.

But I shall now proceed to what is more material, and return an Answer to the former Records cited by the Doctor, to prove, that the *Common Council* of the Kingdom, during the Reign of King *John*, and the beginning of *Henry the Third*, was wholly made up of the Prelates, Earls, Barons, and *Tenants in Capite*, and that they could tax the whole Nation after what manner they pleas'd. Indeed I can find no more of the *Lay-Orders* mention'd, that granted this Tax upon Moveables at the Council of *Oxford*; and that they are called *Magnates Regni* in the Writ to the Archdeacon and Clergy of *Canterbury* above cited; and so they are likewise in the third Record concerning the Aid that was granted for the *Holy Land*; but the Doctor should have done well first, before his big-swalling Words, to have proved, that the Word *Magnates* did only signify the Peers, and other less *Tenants in Capite*; and that as fairly as I have done, that under this Term, not only the *Knights of Shires*, but the *Citizens* and *Burgessees* may be also comprehended; for the Doctor himself in this very Answer to Mr. *Atwood* does not deny, but that the *Knights of Shires* were called *Magnates*, and *Grantz des Counties*, in the Rolls of Parliament; his Words are these that follow, *viz.*

‘ It's very true, that in our antient Parliament Rolls, the *Knights of Shires* are sometimes called *Grantz des Counties*, or *Great Men of the Counties*; and well they might, for without doubt they were most commonly the Greatest *Tenants in Capite*, under the Degree of *Great Barons* in each County, which were chosen by the Military Tenants, to represent the *Omnes Alios qui de Rege tenebant in Capite*, mention'd in King *John's* Charter, or them and all other Military Tenants by Mean-Tenure; for 'tis scarce to be believ'd

believed, that those Men, the Tenants *in Capite*, which made such a Noise for their Liberties, would part with this main Point of being personally present, or the Body of them *Represented* by some of their own number in every County; and it may be upon this Account, they had the Title of *Notable Knights*, &c. in the antient Writs of *Summons* directed to the Sheriffs.

I confess, that if what the Doctor here lays down were true, it would be a very good reason, why the *Knights of Shires* should be called the *Great Men* of their Counties, if they had been always, or most commonly, chosen from the Tenants *in Capite*: But here the Doctor qualifies it with *most commonly*; but how he cou'd prove that, I cannot tell, unless he were alive to answer for himself: but this is certain, from all times beyond Memory, that the *Knights of Shires* were chosen in the *County-Court*, to which Court all *Freeholders* of what Tenure soever, whether by *Knight's-Service* or *Soccage*, were to appear before the *Sheriff* once every Month, except Tenants in *Antient Demesne*, and the *Citizens* and *Burgesses* of such *Cities* and *Free-Boroughs* as were exempted from Suit and Service to it. And tho' 'tis true, that many of the Tenants *in Capite*, under the Degree of Barons, being Persons of great Estates and Power in their Country, were oftentimes chosen *Knights of Shires*, yet it does not from thence follow, that the Inferior Tenants, being many of them (as the Doctor himself acknowledges) Men of great Estates too, (and *Bracton* calls them *Vavasors*, i. e. Persons of Great Dignity and Power) were not as capable likewise of being chosen as any of the Tenants *in Capite*, and oftentimes were thought more worthy to be elected; for that some of these *Mesne-Tenants* were owners of eight or ten Mannors each, when perhaps several of the Tenants *in Capite*, and that in the same County too, might not have half a one: So likewise Tenants in *Soccage*, if they had Estates that made them capable of being Knighted, might have been chosen *Knights of the Shire*, since the antient Writ for their Election does not restrain it to any sorts of Persons in particular, for the only Qualification required of them, was, that they should be chosen, (as well as the *Citizens* and *Burgesses*) *de discretioribus, & ad laborandum potentioribus*, that is, of the most discreet, and most able for Business.

No more is it true, what the Doctor so boldly asserts, that they were chosen by the *Military Tenants*, to represent all those who held of the King *in Capite*; and tho' he qualifies this by adding *All Other Military Tenants* by Mean-Tenure, yet this was not true neither; for the *Knights of the Shires* being chosen by all the Suitors to the *County-Court*, whether they were Tenants by *Soccage* or *Military Service*, must represent them all alike, since they had equal Votes at their Election; but the Doctor is so fond of this Notion, that he is very loth to part with it, and will have it scarcely probable, that the Tenants *in Capite* shou'd not be personally present, or the Body of them represented by some of their own number in every County; so that if this were true, these Tenants *in Capite* were not only *most commonly*, but constantly chosen *Knights of Shires*. But I can see no reason for this, unless the Doctor had proved, that one of the Liberties of these Tenants *in Capite*, was, to be the sole Law-makers

makers and *Tax-granters* for the whole Kingdom; and then indeed nothing could be more Absolute than they, if that could be made out from the *Record* which the Doctor hath cited of the Seventh of *Henry the Third*, that they could have laid a *Pole-Tax* not only upon themselves, but upon All the Inhabitants of the Kingdom, whether they held of them or not, and especially upon the *Cities* and *Boroughs*, many of which (as the Doctor too himself owns) held of the King *in Capite*, and consequently ought not to be taxed, but by *Representatives* of their own choice.

And besides, if this Power of Law-making and giving Taxes was so great and incommunicable a Privilege, it seems strange to me, how these Tenants *in Capite* came ever to loose it; for in all the Records of Parliament and Histories that I have met with, I could never find, that they were any more capable of being chosen Members of Parliament, than those that held of other Lords besides the King, and that in the Reign of *Richard the Second*, which was scarce an hundred Years from the Eighteenth of *Edward the First*, when the Doctor supposes *Knights of Shires* were first settled in Parliament, we have Sir *Geoffrey Chaucer's* Testimony, that Inferior or Mesne-Tenants were chosen *Knights* of the *Shire*; for in his Prologues to his Tales, after he has described the *rich Franklyn*, or Mesne-Tenant, he says, *full often was he Knight of the Shire*; and concludes thus of him, *no where was there a more worthy Vavastor*, which every one, that knows the Meaning of that Word, can tell, that it signified then (as well as in *Bracton's* time) an Inferior Tenant to some other Lord. I should not have dwelt so long upon this Subject, had not the Doctor made it one of his darling Notions, and repeated it more than once in his Answers to Mr. *Petyt* and Mr. *Atwood*, and that he builds so much upon it, as to make none capable to be reckon'd among the *Magnates Regni*, but Peers and Great Tenants *in Capite*, who alone (as he supposes) constituted the *Politick Body* of the whole Kingdom in Parliament.

And since I have here laid before you what *Records* I can find, to prove, that the Council of Tenants *in Capite* was not the sole *Great Council* of the Kingdom, I shall in the next place proceed to the *Historical* part, and shew from our antient Histories, that there was a manifest Distinction between *That* and the *Common Council* of the whole Kingdom; and first I'll begin with the * *English-Saxon Annals*, where under *An. Dom. 1085*. (being the last Year of *William the First*) there is a remarkable Passage, which I shall here give you in *English*: At *Christmas* the King (*viz. William I.*) was at *Glocester*, with his Nobles, and there held his *Curia* or Court (in *Saxon* his *Hired*) five days; and presently after this He held a *Great Council* (in *Saxon*, *Mycel-Getheat*) where He had many large Discourses with the Nobles, &c. Now it seems plain to me, that this Ordinary Court (here called his *Hired*) could not be the *Great Council* of the Kingdom; for to what purpose shou'd it meet again so quickly, if it had been the *Common Council* of the whole Kingdom? Or, why are they here called by different Titles, the one is *Hired* or Court, and the other the *Mycel-Getheat* the *Great Council*;

* Published at Oxon. 1692, in *Saxon* and *Latin*, p. 186.

cil ; which is also called *Commune Concilium totius Regni* in † Sir Hen- † Vol. II.
ry Spelman's Councils in this very Year? fol. 451.

And to shew you more plainly the Difference, between this Great Council of the whole Kingdom, and the less of the King's Barons and Tenants *in Capite*, see * Eadmerus, who, relating what was done in a Great Council held at Easter, immediately before the Invasion of Robert Duke of Normandy, in the Second Year of Henry the First, says, there met in Council *Tota Angliæ Nobilitas, cum Populi numerositate* ; and then Archbishop Anselm engag'd for the King, that He should govern the Kingdom according to the just Laws thereof ; where you see, that besides the Noblemen, called, *Regni Nobilitas* ; there was also a great number of the Commons here termed in the barbarous Latin of that Age, *Populi numerositas*. * Lib. 3. fol. 58.

But when the King held his Curia of the Great Lords and Tenants *in Capite* Alone, the Expressions are more particular, as may appear by many Charters of our first Norman Kings to several Abbeys of their own Foundation, which are said to be made *Consilio, & Assensu Baronum nostrorum tam Presulum, quàm Laicorum*, as you will (for Example) find it in the Charter of Henry the First, to the Abbey of Abingdon, as it is exemplified in the Antient Manuscript Register of that Abbey now in the Cottonian Library ; in which Book you will find more of the like nature, that plainly make out this difference between the less Council of the King's Barons, and Tenants *in Capite*, and the Great Council of the Kingdom.

But that before the Knights of Shires were supposed to have been summon'd to Great Councils or Parliaments, there were other Inferior Tenants (who were not Tenants *in Capite*) that were Members of that Council, appears likewise from Eadmerus, who reciting the Letters which the Prior and Convent of Canterbury wrote to the Pope, to justify the Election of Ralph, Bishop of Rochester, to the See of Canterbury, they say it was made *Adunato Conventu totius Angliæ*, that is, in the united Assembly of all England, viz. the *Episcopi, Abbates, & Principes Regni, & ingens populi Multitudo*, that is, the Bishops, Abbots, and Chief Men of the Kingdom, with a great Multitude of People, were present there ; and that by this Expression is not to be understood the Mob or Ordinary People, that thrust in only to Gaze, appears by * Gervase of Canterbury's relation of a like Election of Archbishop Lanfranc in the Time of William the First ; the Passage in Latin is thus, *Anno quarto Regis Wilielmi I. Anno Dom. 1070, 'Lanfrancus Cadomensis Abbas electus fuit, Archiepiscopus Cantuariensis, à Senioribus ejusdem Ecclesiæ cum Episcopis & Principibus, Clero & Populo Angliæ in Curia Regis in Assumptione Sanctæ Mariæ ; i. e. Lanfranc, Abbot of Caen was elected Archbishop of Canterbury by the Elders of that Church, together with the Bishops and Chief Men, the Clergy and People of England, at the Assumption of the Blessed Virgin Mary : which words Clergy and People, put after the Bishops and Chief Men, must signify the Inferior Clergy and Persons of a Lower Rank than the Barons and Tenants in Capite, and cannot be here render'd as (I own) it may in other places, Clergy and Laity ; for then if the words Episcopi and Principes, had included all, both of the Ecclesiastical and Secular Orders at this Council, the following words Clerus and Popu-* * Scriptor. X. Coll. 1651.

lus would be wholly impertinent, and signify nothing; and this Interpretation is also confirm'd by the Testimony of an *Anonimous* Author who wrote in the Time of *Henry the First*, and relates this Election of Archbishop *Lanfranc* to have been made *Communi Consensu & Consilio omnium Baronum, omniumque Episcoporum, & Abbatum, totiusque Populi*, i. e. by the common Consent and Advice of all his (*viz.* the King's) Barons, and of all the Bishops, Abbots, and the whole People of *England*: By which last words, since they cannot be understood literally that all the People appear'd there in Person, it must be intended that they gave their Consents by their *Representatives* in a joint Assembly or Council of the Barons, and other Inferior Tenants; and that such united Assemblies were then frequent, you may see in *Hoveden*, who, under *Anno 1121* (being the eighteenth of *Henry the First*) relates the King's Marriage with the Lady *Adeliza*, Daughter to the Duke of *Lovain*, to have been celebrated at *Windsor*, *Adunato Concilio totius Regni*, i. e. by the united Council of the whole Kingdom. And * *Simeon of Durham* speaking of the same Council, doth it in the same words.

* Coll. 243.

But I am sensible there may be objected against this Interpretation, that Passage in * *Eadmerus*, *adunatis* (without mentioning either *Præcepto* or *Sanctione Regis*) *ad Curiam ejus in Pascha, Terræ Principibus*, i. e. all the Chief Men of the Nation being assembled at his Court at *Easter*, where it may be thought that this was only a Court held *ex more*, without any summons; and that there is no inferring from those Expressions, *Rex ascivit*, or *adunavit Concilium*, that there were then two different sorts of Councils, since the words signify no more than in general, that the King then assembled his *Great Council* of the whole Kingdom, consisting only of Tenants *in Capite*. To this it may be reply'd, that since this word *adunavit* does properly signify to unite or join together two different things, it must needs have that signification in this Author; for if he had meant only to call or assemble a Council, there are much more proper words for that purpose; and tho' this Court was held at *Easter*, one of the usual times appointed for the ordinary *Curia*, yet it doth not therefore make it the more unlikely, that *Others*, besides the Tenants *in Capite* might be present at it, because I have already said, that for the conveniency of the Great Lords, and such Tenants, the King might unite the *Representatives* of the *Commons* to them, for the dispatch of some more great and weighty Affair, in which He would have the consent of the *whole Nation*; and notwithstanding this Author hath omitted the summoning of this Council to have been by the King's Writ or Precept, yet such a Writ might be issued, for all he takes no notice of it; and he hath also omitted the usual words *ex more*, which he always uses when such Councils were only held according to the common Usage or Custom.

* Coll. 312.

I shall now proceed to the Reign of King *Stephen*, whom *Richard of Hagulstald* relates to have been elected, *à Primoribus Regni, cum favore Cleri & Populi, Clericorum & Laicorum Universitate, ab Omnibus, viz. tam Presulibus quàm Comitibus & Baronibus*, that is, by the Chief Men of the Kingdom, with the Good-will of the Clergy and People, and by the University or Common Body of the *Clerics* and *Laics* (to wit) by all the Bishops, Earls, and Barons; under

under which last word may very well be comprehended, not only the *Great Barons* and *Tenants in Capite*, but also the *Inferior Barons* and *Lords of Mannors*, as I have already proved. And the same Author further tells us, in the beginning of his Reign, that being now settled in the Kingdom, He, by his Royal Edict, commanded the Bishops and Great Men to Assemble, with whom He held a General Council of the Kingdom; and that by the word *Proceres* not only the *Great Lords* and *Tenants in Capite* may be understood, but also the *Representatives* of the *Commons*, I have already proved from divers Authors who comprehend them under that Title.

As for the long Reign of *Henry the Second*, tho' the Authors are very general in their Expressions of the *Constituent* Members of the Councils held in his time, yet we may produce divers Testimonies from them, to prove, that the *General Councils* of the Kingdom consisted of more Members than the *Tenants in Capite* Alone; and that by the word *Proceres* mention'd after the *Barones* to be present in the Council of *Clarendon*, and before whom the Constitutions there made were allow'd and recogniz'd, not only the *Tenants in Capite*, but other *Inferior Tenants* are to be understood, may appear in * *Fitz Stephen's Life of Thomas Becket*, where, upon his Tryal, and the Bishops withdrawing from giving Judgment upon him, the Author thus proceeds, *Evocantur quidam Vicecomites & secundæ dignitatis Barones, antiqui dierum, ut addantur eis, & adsint Judicio, i. e.* there were thereupon call'd up (*viz.* to supply the places of the absent Bishops) certain Sheriffs and Barons of the *Second Order*, that they should be added to them, and present at this Judgment. Now that by these Persons here mention'd, not any *Tenants in Capite*, but certain Persons of an *Inferior Dignity* are to be understood, appears by one of the Constitutions of this Council, wherein it is expressly provided, that *Archiepiscopi, Episcopi, &c. & Universæ Personæ Regni qui de Rege tenent in Capite, habeant possessiones suas de Domino Rege, sicut Baroniam, &c. & sicut Barones ceteri debent interesse Judiciis Curie Regis cum Baronibus, &c. i. e.* the Archbishops, Bishops, &c. and all Persons of the Kingdom who hold of the King *in Capite* hold their Estates of our Lord the King, as a Barony, &c. and as other Barons ought to be present in Judgments of the King's Court with the Barons; whence it evidently appears, that all the less *Tenants in Capite* being already present at this Tryal of *Thomas Becket*, these Sheriffs and Barons of the *Second Order*, who were call'd in upon the departure of the Bishops, must have been *inferior Tenants*, or Barons of the Counties, and were the same, or very like our *Knights of Shires*, and they must have been *summon'd* to this Council, at the beginning of it, because otherwise they could not have been call'd up, upon the going out of the Bishops to supply their places.

I shall but barely mention the next *General Council* held by this King at *Gaitington*, which (as *Hoveden* relates) besides the Bishops, Abbots, Earls, and Barons, consisted of many Others, as well *Clerics* as *Laymen*; and by these *Multi Alii* are to be understood the same Persons as are mention'd in the Preamble to the Statute of *Merton*, which is said to be made, as well by the Archbishops, Bishops, Earls, Barons, *quàm ab Ipso Rege & Aliis*, as by the King Himself and Others: By

which last words coming after the *Barons*, are meant the *Representatives* of the *Commons*.

I confess the Reign of *Richard the First* doth not afford us many Instances of these separate or distinct Councils, yet one or two I have given you, and shall here barely mention the latter of them from *Hoveden*, who recites the *Assise* or Laws concerning Forests, to be made by the King with the Consent of the Archbishops, Bishops, Abbots, Earls, Barons, & *Militum*, i. e. of the *Knights*, or Men at least that held by Military Service of other Lords.

The Reign of King *John*, tho' it was not long, yet will afford us some Evidences of these two distinct Councils, and I shall here mind you of what I have already said in the former part of this Discourse concerning that Charter, whereby the King settles a Jointure on his Second Wife Queen *Isabel*, who in the beginning of it is said to be crown'd Queen by the common Assent of the *Archbishops, Bishops, Earls, Barons, and Clergy*, and *People* of the Land, that is, in a *Great Council*, consisting of these several Orders or Estates; and I suppose He was elected and crown'd by a Council consisting of the same Members, tho' the Authors that write of it are not so express in this Relation. Yet however it is sufficiently hinted by

* *Pag.* 197.

* *Matt. Paris* in his Account of this King's Coronation, at which, he says, there assembl'd at *London*, ' the Archbishops, Bishops, Earls, and ' Barons, and *All Others* that ought to be present at it; and then ' *Hubert*, Archbishop of *Canterbury*, standing in the middle of them ' All made a Speech to them, and perswaded them to elect *John*, ' Duke of *Normandy*, King, as they did, and so He was crown'd by that Archbishop; by which words, and *All Others who ought to be present at his Coronation*, may very well be understood the *Representatives* of the *Commons*. But * *Dr. Brady* will by no means allow of this Interpretation; for he says, ' He was set up and crown'd by Arch- ' bishop *Hubert* and his Faction, *Arthur* Duke of *Britain*, Son of ' *Geofry* his elder Brother, being the right Heir: But here is not the ' least mention of a *Great Council*, or the *Commons*, unless it be said ' this Convention be one, as most certainly it was not: Here were ' the Bishops and Temporal Lords only present, and Actors in this ' Transaction, there might be a great many of the *Commons* Specta- ' tors at this Solemnity, but the Bishops, Earls, and Barons, were ' they who acted and contrived the crowning and making of Him King.

* *B. A. P.*
pag. 33.

Ibid.

Tho' the Doctor hath put what he says concerning Earl *John's* being crown'd King by the *Archbishop and his Faction* in a *black Letter*, that it might be the more taken notice of, yet he cites no Author for it. *R. Hoveden*, and all the rest of the *Historians*, unanimously agree with what is set forth in a Charter of this King's, that He was crown'd *tam Cleri, quam Populi unanimi Consensu & Favore*, by the unanimous Consent of the *Clergy* and *People*, by which Expression cannot be understood (as the Doctor would have it) only a Faction of the Earls and Barons, but the *Representatives* of the whole People or Nation: And I have not yet found, that the Doctor, with all his Learning, from any *Record* or *History*, can shew us, that by the word *Populus* is to be understood the *Great Barons* only; for it seems the less Tenants *in Capite* are now quite

Carta moder-
ationis Feodi
magni Sigilli.

left

left out of this Account. But that the *Representatives* of the *Commons* were not admitted only as Spectators of this Assembly, appears by these Words of the Author's immediately after *Baronibus, atque aliis Omnibus qui ejus Coronationi interesse debuerunt*; which would not have been expressed, had not there been Others besides the Earls and Barons, who could claim a Right to be present at his Coronation, and at his Election too. In the 6th Year of his Reign King *John* summon'd a great Council of the Kingdom, as appears by a * Writ on the Clause Rolls, whereby He call'd them to treat with Him of arduous Affairs for the common Utility of the Kingdom, and therefore it was necessary to have the Advice of the *Magnatum*, the Great Men of the Kingdom, upon those matters, which had been sent Him by his Ambassadors from the King of France. And that by the Word *Magnatum*, the *Knights of Shires* may be included, I have sufficiently proved already.

* Rot. Claus.
6 Johan. m. 3.

Roger Hoveden says, under the Year 1207, (being the 8th Year of this King) that He kept his *Christmas* Court at *Winchester*, the *Great Men* of the Kingdom being present; this was certainly a Court of the Tenants *in Capite* held *ex more*, according to Custom; for it immediately follows in the same Author, that at *Candlemas* He took a *Thirteenth* part of the Moveable Goods of the *Laicks*, as also of the *Ecclesiasticks* and *Prelates*, who for all they murmur'd against it, durst not contradict it; but tho' this was given grudgingly, yet it was not as Dr. Brady in his History would have it, only impos'd upon the Kingdom by the King's Council at *Oxford*, but what was really granted by a *Common Council* of the whole Kingdom; but since he grounds this Opinion upon a † Record of this King, where in this Tax is said to be granted by the Advice and Assent of his Council at Oxon, I will shew that the Annals of *Waverly* under this Year do very well explain this Expression, and therefore I shall give you their Relation of this Transaction.

† Pat. 8, 9.
Johan. m. 3.
Dors. n. 83.

Ad An. 1205

That King *John*, after his Return from beyond Sea, having summon'd the Bishops, Abbots, Priors, Earls, Barons, and *Great Men* of the Kingdom, eight days after *New-years-tide*, to a Council at *London*; He there moved the Bishops and Abbots, that they would permit the Parsons and Beneficed Clerks of Churches, to give Him a certain Sum out of their yearly Revenues; which when the Prelates would by no means agree to, it was deferr'd to the next *Common Council*, which was to be held at *Oxford*, on the Octaves of the *Purification* of our Lady; when a great Multitude of the Prelates, and *Great Men* of the Kingdom being assembled, the King again required of the Bishops and Abbots, what He had demanded of them before; but they all, both of *Canterbury* and *York*, taking Council together, unanimously answer'd, That the Church of England could no ways bear such a Burthen, as had never been heard of in all former Ages; then the King taking better Advice, wholly releas'd that Demand to them; yet afterwards it was ordain'd by the whole Kingdom, that all Men in general, by whatsoever Tenure they held, should swear to the value both of their real and personal Estates, and should pay a *Thirteenth* part thereof to the King for the Recovery of his Inheritance in *Normandy*, and his other Dominions in France.

From

From this Author's Relation, we may draw these Observations, that notwithstanding the King's holding his Court or Council with his Great Men at *Christmas*, (as * *Matt. Paris* relates) yet within little more than a Fortnight after, He summon'd all the Persons there mention'd to a *Great Council* at *London*; but not obtaining his Desire from the Clergy, He held another Council at *Oxon* at *Candlemas* following, for the same purpose. Now if the *Magnates* or *Great Men* (that is, all the Tenants *in Capite*, both Great and Small) had then made the *Common Council* of the whole Kingdom, what need King *John* to have summon'd another *Great Council* at *London* so soon after? since He might as well have propos'd the Business to the Bishops, Abbots, and Priors, who held *in Capite*, as also to the *Lay-Nobility* that held by the same Tenure, without troubling them to meet again in so short a time: But if the Doctor's Friends shall in answer to this, alledge, that the King took this course, because He was resolv'd to have the Resolutions not only of the Bishops, Abbots, and Priors, who held *in Capite*, but also of all other Prelates, whether they so held or not, since it was from them chiefly, that He now demanded an Aid, and that therefore it was necessary to summon them to another Council, because they were not obliged to appear at that which had been lately held at *Christmas*, *ex more*: I grant this may seem a plausible Answer, but upon Examination it will not do the Business; for had this Demand only concern'd those Prelates, the King needed to have summon'd no more than those to a Council or Synod of both Provinces, wherein He might have received their Answer; whereas we find the Earls, Barons, and other *Great Men* summon'd to this *Common Council*, which must have been to give Him their Assistance and Advice in this great Necessity he then lay under; and that this Tax was intended to be general, upon the *Laity* as well as the *Clergy*, appears by what follows in this Relation, *that all Men whatsoever should pay the Thirteenth part of their real and personal Estates to the King, for the Recovery of his lost Dominions*, which being a Tax upon all Personal as well as Real Estates, could not be granted by the Tenants *in Capite* alone; and therefore by the same reason that all the Abbots and Priors of the Kingdom were summon'd to both these Councils at *London* and *Oxford*, as well those that did not hold *in Capite*, as those that did, it will follow, that the *Lay-Members* must likewise have consisted of Others, than only Tenants *in Capite*. Dr. Brady (for what reason I know not) has not thought fit to give any Answer to this Citation from *Matt. Paris*, in his Animadversions upon * Mr. Atwood's *Jani Anglorum, &c.* who there makes use of it; yet (as I suppose) the Doctor fancied it made for him, and that this Tax was levied by the King's sole Authority, as appears by what he says in the same Treatise, from † *Matt. Paris*, that King *John* took a Seventh part of all Moveables without Common Assent; and another time a Thirteenth, the *Great Men* and *Clergy* grumbling at it. This last, by the Quotation in the Margin, must refer to this very Tax, which he supposes the King to have levied by his sole Prerogative, from the general Words of his Author, that the King then took a *Thirteenth* part of all Men's Moveables throughout *England*, which could not have been well confuted, but by this Testimony of the *Annals of Waverly* I have now produced;

* P. 209.

* Page 227.

† Page 209.

produced ; and which indeed may teach Writers of History, not to be too positive in their Relations or Inferences from any one single Author, for the establishing of any particular Notion or Opinion of their own, without first consulting all other *Historians* and *Writers* concerning that matter. But as I have given you the best Objection, I cou'd think of, in answer to the Consequences I have drawn from the Authorities now cited, so if the Doctor's Friends, who may peruse these Sheets, shall think it worth their while to make any others more satisfactory, I shall be very glad to be better inform'd.

In the Fifteenth Year of this King, the Civil War with his Barons being now begun, He summon'd a *Great Council* to be held at Oxford, the * Writs for which † Mr. Selden hath given us, and says, that, for all he hath seen, it is without Example. I shall make bold to give it you in *English*. The King to the Sheriff of Oxfordshire, greeting, *We command thee, that thou cause to come to Us all such Knights of thy Baylywick, with their Arms, who were summon'd to appear before Us fifteen days after All-Souls ; but as for the Barons, thou shalt cause each of them to come without Arms ; also thou shalt cause to come to Us four discreet Knights of thy County, at the same time, to speak with Us concerning our Affairs :* This bears Date the 11th of November : Then follows thus, *In the same manner it is written to all other Sheriffs ;* which shews that it was a General Summons to a Council of the whole Kingdom. But the right understanding of this Writ I grant is somewhat difficult, for if by *Omnes Milites*, all Knights mention'd in the beginning of it, are to be understood (as * Dr. Brady does) the less Tenants *in Capite*, who were to come with their Arms, I cannot see any reason, why, if by the next Word *Barones*, the Great Barons are to be understood, they shou'd contrary to their Tenures be order'd to come without Arms, whilst the Inferior Tenants *in Capite* were to have their Swords in their hands. But this I think is plain enough, that by the *four Discreet Knights*, who were likewise to come thither, (but whether with or without Arms, is not said) must be meant *four Knights* chosen by each Shire, which certainly could not be Tenants *in Capite*, since they were already summon'd in the beginning of this Writ to come thither, armed ; and therefore the only sense I can make of this Record, is, that whether by the Word *Barones*, are to be understood the Barons properly so call'd, or the Barons of the Counties which I have already mention'd, does not fully appear, yet hereby is plainly intended a *Common Council* of the Kingdom, which was to consist of the Representatives of the Commons, besides the Great Barons and Tenants *in Capite*.

And to prove further, that a *Common Council* of such, both Great and Small, could not represent or oblige the whole Kingdom or Nation, appears by that Council of them alone, which was held by King John for the Confirmation of that Charter, whereby he surrender'd his Kingdom to the Pope, at the Conclusion of which it is recited to be made *per Commune Concilium Baronum suorum*, by the *Common Council* of his Barons.

* Dr. Brady cannot deny the Conclusion to this Charter, which he says was executed in the House of the *Templars* near Dover,

in

* Rot. Claus.
15 Johan. p. 2.
m. 2.

† Tit. Hon. p.
587. where
you may see
it in Latin ;
as also in Mr.
Atwood's Jani
Angl. p. 230,
231.

* B. A. P.
p. 103.

* B. J. A.
p. 175, 176.

in the presence of two Bishops, the Chief Justiciary, seven Earls, and three Barons, with *divers Others*, without subjoining any other Note of that there were more present; and then he proceeds to this effect, that King *John* having rais'd an Army to oppose the King of *France*, if He should land, his Tenants *in Capite*, with others only met there upon that Account; and therefore he will have this to be no more than a *Military Summons* for their mustering and appearance with Horse and Arms at *Dover*, the place appointed for the Rendezvous; so that this Assembly being only an Army, and the five proscrib'd Bishops being in *France*, and the Barons that sided with them fled beyond Sea, or not daring to appear; and further, the *Resignation* being executed before so small a number of Barons, without any probability of more being then present, this could not be such a Council as was constituted by King *John's* Charter; that is, it was not a *Parliamentary Council*, *Colloquium*, or *General Representative* of the Nation; and therefore the Parliament in the Fortieth of *Edward the Third* might well say, *this Resignation was made without their Assent*.

But for all the Doctor's Evasions, I do not doubt, but to prove, that this Assembly was truly a Common Council of Tenants *in Capite*, consisting of the same Members as that which was afterwards agreed to by King's *John* Charter, for * *Matt. Paris* thus relates the manner of raising of this Army; that the King having a little before summon'd all the Earls, Barons, *Knights* and *Freemen* of the Kingdom whatsoever, and of whomsoever they held, to appear in Arms, these made so vast an Army, that after all the ordinary Rabble were sent home, the same Author tells us, the *Knights*, *Esquires*, and *Freemen*, that staid behind, made about sixty thousand Men, who were encamped at *Barham-Down*, not far from *Dover*, where this Resignation was executed: So that this being almost as great a Meeting as that at *Runne-Mead*, the King might very well make out of these a full Council of Tenants *in Capite* to join in this *Resignation*; and that He did so, the Conclusion to this Charter says expressly, which had it been otherwise, might easily have been disprov'd by the Pope's Legate as a notorious Falshood; and tho' the King summon'd them at first, only upon a *Military* Account, yet He might very well make use of them afterwards for another purpose, especially since the time appointing their Summons, no more than the Cause of it, was not yet settled by this Great Charter. And as for the small number of Barons and Bishops, which (the Doctor says) were present at this Meeting, it does not follow, that because no more are expressed as Witnesses to this Charter, therefore there were no more present; for tho' the Words *cum multis aliis* are omitted, yet that might only be thro' the Haste or Forgetfulness of the Clerk that wrote it. And suppose five of the Bishops were now fled into *France*, it is however very likely, that All, or the Greatest part of those that staid behind, were present at this Council, since most of them (except two or three who had join'd highly with the King) were very desirous that He shou'd agree with the Pope upon any Terms, as were likewise most of the Earls and Barons, whom the King durst not confide in, because He believ'd them more inclinable to the Pope and the *French* King, than to his own Interest;

Interest ; therefore it is no wonder if He struck up this Agreement with the Legate as soon as He cou'd ; so that the Bishops, Earls, Barons, and Tenants *in Capite* there present, might very well be Witnesses and give their Consents to it before they return'd home. And tho' the Words *pro se & Communitate Regni* are not express'd in the Conclusion of this Charter of *Resignation*, yet this is no sufficient Argument against the Validity of it ; the Words *Communitas Regni*, not being to be found in any Charter or Record before the Reign of *Henry the Third* : And therefore this Instrument might very well be made in such a Great Council of Tenants *in Capite*, as was thought sufficient at that time for the Purposes therein mention'd.

Not long after this Assembly of the Tenants *in Capite*, the Wars between the King and the Barons unhappily broke out, which produc'd that Great Assembly of the whole Nation at *Runne-Mead*, and this I have proved in the former part of this Discourse to be a *Common Council* of the whole Kingdom ; and therefore I shall not repeat what I have already said upon that Subject.

I come now to the Reign of *Henry the Third*, but of which I have said so much already both from *Records* and *History*, to prove, that the *Commons* were present in several *Common Councils* or Parliaments of his Reign, that it is needless to repeat them ; yet I shall add one Instance more from *Matt. Paris*, to shew, that the Tenants *in Capite* did not then constitute the *whole Community* or Body of the Kingdom in Parliament, and it shall be one of those Instances that Doctor B. himself hath made use of from the same * Author, who relates * P. 434, 435. under *A. D. 1237*, that that Year the King kept his *Christmas-Curia* or Court at *Winchester*, from whence He sent out his Writs, commanding all that belong'd to the Kingdom or Government, namely, Archbishops, Bishops, Abbots *install'd*, Priors, Earls and Barons, that without fail they shou'd meet at *London* on the Octaves of *Epiphany*, which they did accordingly, and on *St. Hillary's* day the whole Body of the *Nobility* met at *London* ; and in this Council we find, after some difficulty, a *Thirtieth* part of all Moveable Goods were given to the King. Now if the *Great Barons* and Tenants *in Capite* Alone made up at that time the *Great Council* of the Kingdom, why could they not, when they met the King at *Christmas*, *ex more*, have granted Him this Tax, without putting Him to the trouble of *Summoning*, and themselves of appearing again in so short a time as between *Christmas* and *St. Hillary's* day, which is the 13th of *January* ? besides which, the manner of raising this Tax, being upon the Moveable Goods of the whole Nation, sufficiently shews it could not be the sole Grant of the Tenants *in Capite*.

I am now come to the last Period of my intended Design, which is to set down and fairly weigh and consider the Doctor's Arguments, whereby he undertakes to prove, that after the 49th of *Henry the Third*, to the 18th of *Edward the First*, the *Knights of Shires* were never summon'd to appear again in any Parliament of those Reigns ; but since the Doctor hath taken so much Pains to give a long Relation of the *Civil Wars* between King *Henry the Third* and

his *Rebellious Barons*, who were headed by *Simon Montfort*, I shall in the first place, as an *Introduction* to what follows, give you his Account of this Great Alteration in the Government, by bringing the *Knights, Citizens and Burgeſſes* to be Members of Parliament, which being begun by the Rebellion of *Simon Montfort* and his Faction, the King not thinking it ſafe for his Intereſt to follow that Example, is by the Doctor ſuppos'd after the Battel of *Eveſham* to have again ſummon'd what Earls, Barons, and Tenants *in Capite* He pleas'd, to all other Parliaments, that were held during the reſt of his Reign, which was imitated by his Son King *Edward the Firſt*, till the 18th Year of his Reign, when upon ſome unknown Conſiderations, He thought fit, firſt to introduce the *Knights of Shires*, and then about five Years after, *viz.* in his Twenty third Year, the *Knights, Citizens and Burgeſſes*, as Conſtituent Members of Parliament.

† B. A. P.
p. 134. & de-
in. 137.

Having thus given you in ſhort the Summ of Dr. *Brady's* Notions concerning theſe matters ; I ſhall now proceed to lay before you a brief Hiſtory (from the Doctor's Answer to Mr. *Petyt*) of this Great Tranſaction between King *Henry* and his Barons, which is to this effect ; † ' that after *Simon Montfort* and the reſt of the Barons of his Faction had taken King *Henry the Third*, and *Richard* Earl of *Cornwal*, the King's Brother, together with the Princes their Sons, and ſeveral other of the Nobility, Priſoners at the Battel of *Lewes*, he carried them about with him, till they had taken in all the ſtrong Forts and Caſtles of the Land ; and when this was done, *Matt. Paris* tells us, that calling together the Biſhops, Earls, and Barons of that Faction, which ſo ſeditiouſly held their King Priſoner, they began to ſet up a Committee for the Government of the Kingdom, conſiſting of twelve Lords, who were choſen out of the whole Community or Body of the *Baronage*, without whoſe Advice and Conſent, or at leaſt of three of them, no Affairs in the King's Houſhold, nor of the Kingdom, ſhould be tranſacted ; and to theſe Ordinances the King and his Son were forced to agree ; and the Record of this Agreement recites, that this Ordinance was made at *London*, by the Conſent, Good-liking, and Command of the King, and alſo of the Prelates, Barons, and of the whole Community there preſent ; and the Doctor hath already undertaken to prove from the * *Record* cited in the Margin, that by the word *Community* there mention'd, is to be underſtood not the *Commons*, but the Community of the whole Kingdom repreſented by the Biſhops, Lords, and Tenants *in Capite*, and that the Agreement between the King and them is only ſign'd by ſome Earls and Barons, and no *Commoner* Witneſs to it, except the Mayor of *London*, whom he ſuppoſes to have been no Member of Parliament.

* Rot. Parl.
48. H. 3. M 6.
Dorſ.

Ibid.

After this, *Simon Montfort*, the better to ſettle himſelf in his uſurp'd Power, and in thoſe Lands and Caſtles, which himſelf, and thoſe of his Faction had unjuſtly wreſted from Prince *Edward*, who was ſtill a Priſoner, having deliver'd himſelf as a Hoſtage for the performance of this forced Peace ; they in the firſt place ſent out Writs in the King's Name unto divers Biſhops, Abbots, and Priors, and to ſuch of the Noblemen as were of their own Party, to appear at *Weſtmiſter* on the Octaves of *St. Hillary* next enſuing ;
and

and the * Doctor hath given us a Copy of the Writ of Summons to the Bishop of *Durham*, as it is found in the † Close-Rolls of the Forty ninth of this King, at the end whereof it is thus recited, *Eodem modo Mandatum est Episcopo Carleol* ; as also to divers Bishops and Abbots, all of their own Party and Faction, there being above an hundred Abbots and Priors then summon'd (more than ever were, I believe, before or since) and then follows a short Writ to the Sheriffs of Counties, to summon two Knights *de Legalioribus & Discretioribus singulorum Comitatum*, tho' it doth not appear by that Writ, whether the Sheriffs of the Counties were to elect and send these *Knights*, the Sheriffs being then of their Faction, and made by them, for 'tis there said only, *quod convenire faciant* : There are also other Writs recited to have been directed to all the Great Cities and Towns of England, as also to the *Cinque-Ports*, to send two of the most legal and discreet Persons of each of the said Cities, Boroughs, Towns, and *Cinque-Ports*, to the said Parliament at *Westminster*, at the time aforesaid ; so that without the History of this very nick of time, these Writs (which are said to be for the delivery of the Prince out of Prison, and for the settling of Tranquility and Peace in the Nation) cannot be well understood.

But Prince *Edward's* Release could not be agreed upon in this Parliament, whatever other business might be dispatched ; so that things still remain'd in this uncertain Condition (the King being all this while a meer Cypher) until such time as *Simon Montfort*, and *Gilbert de Clare*, Earl of *Glocester*, falling out, the latter at last took up Arms, and joining with the Earls of *Surrey* and *Pembroke*, to whom also Prince *Edward* came, after he had made his Escape from *Hereford* ; they altogether raised considerable Forces against *Montfort*, who meeting them, and joining Battel near *Evesham*, *Montfort*, with one of his Sons, and many other Lords and Knights, were slain, and all his Party routed.

And the Doctor gives us a specious Reason, why we can find but Three and twenty Barons enter'd upon the Roll of this Year, of that great number there was then of them, and only thirteen Bishops that appear'd in this Parliament, and yet at the same time that there should be summon'd above an hundred Abbots and Priors, and but five Deans of Cathedral Churches ; and this the Doctor supposes to have proceeded from the danger that *Simon Montfort* and his Privados apprehended from the too great Concourse of the Nobility, and their great Retinues ; and the Example of his own and the Baron's Practices at *Oxford* in the Parliament of the Twenty second of *Henry the Third*, might be the cause why they alter'd the antient Usage, and now to send out Writs, commanding the Sheriffs of each County to return two *Knights* ; and also the Cities and Boroughs, to chuse two *Citizens* and *Burgeßes* respectively : But the reason why there were so many Abbots and Priors summon'd, was because *Simon Montfort* thought himself sure of them ; for he was a mighty Zealot, and a Godly Man in those Times, and a great Minion of these Religious Men (as then call'd) as also of the Bishops and Clergy, and they were at least seemingly great Favourites of his.

I have been the larger in giving you this Account from the Doctor's own Treatise, that you may see the most he thought could

* B. 2. 1.
p. 137.
† Rot. Clauf.
49 H. 3. M. 11
Dorso in Sch.
dulo.

Compleat Hist.
pag. 649.

Ib. p. 143.

Ib. 139.

be said for this Opinion, which seems to me, however, not at all satisfactory ; for tho' I confess there is some colour of Reason, why *Simon Montfort* should summon so many Abbots and Priors to this Parliament, because he is supposed to have been sure of their Votes before-hand ; yet this is but a bare conjecture ; for if he had been so sure of them, there was as much reason why he should have summon'd them all likewise to the Parliament at *London*, which the Doctor says he called the Year before, when with the Consents of the Bishops, Barons, and Others, He made the *new Ordinances* mention'd by the Doctor, but he cannot find in any Historian or Record, that *Montfort* then summon'd so many of them ; yet it seems pretty strange, that all these Abbots, and Priors, and Deans, not a fourth part of whom were Tenants *in Capite*, should take the trouble to come to this Parliament without any scruple, if neither they nor their Predecessors had ever been summon'd before.

But the Doctor's reason why so few Earls and Barons should be summon'd is much more unlikely ; for if the numerous Appearance of the Barons, and their Practices at *Oxford*, had been like to have frustrated *Montfort's* Designs, there had been indeed some Reason, why he should have done all he could to have hindered their coming to Parliament again ; whereas, on the contrary, the major part of the Earls and Barons at the Parliament at *Oxford*, who came thither with Arms and great Retinues, did come there only to join him, and to force the King to agree to the *Provisions* there made ; but if the *Commons* were now summon'd (as the Doctor supposes) to curb the extravagant Power of the Lords and Tenants *in Capite*, yet it could not be his *Interest*, nor indeed in his *Power* so to do ; not the *Latter*, because the Earls, Barons, and Tenants *in Capite* were too numerous to have suffer'd such an Affront and Breach upon their antient Rights as this would have been ; so that he and his Accomplices durst never have displeas'd so great and powerful a Body, as they are allow'd to have been, even by *Dr. Brady* himself, and who made such a resolute opposition for their Liberties in King *John's* Time, or that they would thus tamely have permitted Men wholly of the Sheriff's Choice and Returning, (as the Doctor supposes) to have thus taken away their Places in Parliament, and made Laws for them, much less the *Citizens* and *Burgesses*, most of whom were certainly not Noble by Birth, nor yet held Lands *in Capite* : Nor could it be for *Montfort's Interest* so to do ; for the greatest part of the Earls, Barons, and Tenants *in Capite*, were on his side already ; and thus to exclude them, had been the only way to disoblige and make them leave him, and go over to the King's Party : So that upon the whole Matter, suppose *Montfort* to have been such a *Knave* and *Hypocrite* as the Doctor wou'd have him, yet certainly he was *no Fool*, but a cunning Politician, and would never have done so silly and impolitick a thing as this. Nay, granting all the Abbots and Priors to have been of his side (as the Doctor supposes) they could no way counterballance the prevailing Power of the numerous Tenants *in Capite* ; so that whenever the *Commons* received their first Summons to Parliament, it was certainly before the Forty ninth of *Henry the Third*.

But

But to unfold the Mystery the Doctor makes of it, why so few Earls and Barons are mention'd in this *Record* to have been summon'd, it was not out of any Jealousie or Suspicion that *Simon Montfort* had of them, who were for the greater part of them his fast Friends; but out of pure carelesness or omission of the Clerks, who, I suppose, thro' haste, inadvertency, or multiplicity of other business omitted to enter the Names of all the rest of the Earls, Bishops, and Barons, to whom Writs of Summons were undoubtedly sent; and that I do not speak this without Book, I appeal to the *Record* it self, where there is a blank space left unfill'd of five or six Inches breadth, which could be left for no other end, than to add the Names of all the rest of the Earls and Barons, who were certainly summon'd to that Parliament, as well as those whose Names are there set down.

I have now given you the Doctor's Account of the Original of the House of *Commons* being called to Parliament, and the Reasons that *Simon Montfort* had then to do it; and I have also added the Objections and Arguments against it, which I shall leave to the consideration of the Ingenious and Impartial Reader, who is most likely to be in the Right, he or I in this Controversie.

But since besides the Reasons and Arguments already given by those of the Doctor's Opinion, they also pretend to prove from other Precedents and Authorities, that the *Representatives* of the *Commons* were never summon'd to Parliament before the Forty ninth of this King's Reign, nor during the rest of it, because there are no more Writs of Summons to be found on the Close-Rolls of King *John* and *Henry the Third*, whereby it might appear, that the *Commons* were summon'd to any other Parliament after this, to the time the Doctor assigns.

To this it may be answer'd, that this would be indeed a very material Objection, were there any Writs of Summons to be found on those Close-Rolls, to the Bishops, Earls, Barons, and Tenants *in Capite*, during all that time; but since there are none such to be found, it is most likely, that those Writs (which were without doubt once extant) are all lost or destroy'd; but because the Doctor, in Answer to this, has printed some few Writs of Summons to certain Bishops to appear at *Great Councils* or Parliaments, and therefore supposes the like Writs should be found on the same Rolls to the *Commons* also, had they ever been summon'd before the time above-mention'd; therefore I will here recite the Writs themselves, and shall then give you my Observations on them.

The first Writ the * Doctor hath given us, is on the † Close Roll * B. A. P. of the Sixth of King *John*, directed to the Bishop of *Salisbury*, which ^{p. 87.} is needless here to be repeated *verbatim*, only I would observe to ^{† M. 3. Dorset.} you the material words of this Writ; where, after the Clause of the Summons particularly express'd, it concludes thus, *Expedit habere vestrum Concilium & aliorum Magnatum Terre nostre quos ad diem illum & Locum fecimus convocari.* * The second is on the Close-^{* M. 13. Dorset.} Roll of the Twenty sixth of *Henry the Third*, directed to *William*, Archbishop of *York*, wherein he is likewise summon'd, *ad tractandum Nobiscum unà cum cæteris Magnatibus nostris, quos similiter fecimus convocari de Arduis Negotiis nostris statum nostrum & totius Regni nostri specialiter tangentibus*; with this Note underneath

Eodem

Eodem modo Scribitur omnibus Episcopis, Abbatibus, Comitibus, Baronibus.

* B. A. P.

p. 92, 93.

Rot. Claus. 38.
Hen. 3. M 14.
Dors. de Magnatibus vocandis ad Concilium.

* Fol. 189. n. 50.

The * third is of the Thirty eighth of the same King, directed to Boniface, Archbishop of Canterbury, whereby he is summon'd to appear at *Westminster* within fifteen Days after St. Hilary, next coming before the Queen, and Richard Earl of Cornwall, about the Affairs of Gascoigny, and this very Council; *Matt. Paris, Anno Dom. 1254.* calls a Parliament, to which all the *Magnates* or Great Men of England were assembled; the Day of which Meeting he makes to have been the sixth of the Calends of February, and which fell out within fifteen Days after St. Hilary, which was the Day appointed for the meeting of this Parliament, by the afore said Writ of Summons, and who were the Constituent Parts of it may (as the Doctor supposes) be further made out by a Letter of the Queen, and Earl Richard to the King then in Gascoigny, which is recited by * *Matt. Paris* in his Additaments in these words, *Domino Regi Angliæ Regina, & Ricardus Comes Cornubiæ salutem; recepimas Literas vestras ad natale Domini proximè præteritum quod in Crastino Sancti Hilarii Convocaremus Archiepiscopos, Episcopos, Abbates, Priores, Comites, & Barones Regni Angliæ ad ostendendum, &c.* whereby it appears, who were then the Constituent Parts or Members of our English Parliaments, viz. the Archbishops, Bishops, &c. Earls and Barons of the Kingdom; so that (as the Doctor believes) there is no such universal Silence concerning the Constituent Parts of our Parliament, as Mr. Petyt and his Friends suppose, from the want of the Parliament-Rolls of those Times, most of which, tho' they are lost, yet the Doctor thinks there are enough left to satisfy any reasonable Person, that there were then no *Commons* in Parliament, in the sense they are now taken.

Now, to return an Answer to what hath been here said, it seems, notwithstanding all the Doctor's diligence, he can find but three Writs of Summons to Bishops or Lords, in the space of near forty Years, within which time there might have been as many Parliaments summon'd; for as to King John's Reign, it is certain, that most part of the Close-Rolls are lost, and those of Henry the Third were very carelessly kept, there being but very few things entred under each Year, and in some none at all; and from the Forty ninth Year of his Reign to the end of it, there are no Writs of Summons to be found, either to Bishops, Lords, or Commons.

But to say somewhat to these Writs the Doctor hath cited, it is not my own Opinion alone, but that of divers Learned Antiquaries, that they are not *Summons* to a *Common Council* of the whole Kingdom, but only to *Great Councils* of the Bishops, Earls, and Barons, to consult of some arduous Affairs concerning the making of War or Peace; their Power being much greater in that Age than it was either before or since.

And as for this last Writ, which the Doctor would needs have to be a *Summons* to Parliament, in the Thirty eighth Year of this King, because *Matt. Paris* calls it so, this is no convincing Argument with me; for this Author sometimes calls a *Great Council* or *Colloquy*, to which the Bishops, Earls, and Barons, were often summon'd a *Parliament*; for that word being then come lately into fashion,

fashion, and of a *French* Original, is often used for a *Colloquium* or *Treaty* or *Council* with the Parties above-mention'd, as being all of much the same signification. But what may sufficiently satisfy any indifferent Person, that this last Writ to the Archbishop of *Canterbury* was not a Summons to Parliament, is, that it is thus enter'd upon the Margin of the Roll, *Summonitio ad Concilium*; but this the Doctor thought fit prudently to conceal, as he commonly doth any thing that makes against him: Nay, the Learned Mr. *Selden* and the industrious Mr. *Pryn*, tho' they have printed the two former of these Writs, as Summons to Parliament, yet take no notice of the last, for the Reason already given; which sure they would have done, had they not been satisfied it could not deserve that Title.

I might have here concluded this part of the Discourse, because Sir *H. Spelman*, and after him Mr. *Pryn* think it sufficient to stop here, tho' they suppose the *Commons* not to have been summon'd to Parliament, until the 49th of *Henry the Third*: But since Dr. *Brady* from the loss of Writs of Summons, and the neglect of any express mention of the *Commons*, any otherwise than by the Word *Communitas Regni*, runs back to his old beloved Notion, that this Word must only signify the Community or Body of Tenants *in Capite*, and that the summoning the *Commons* to Parliament having began in a time of *Rebellion*, was again left off, and omitted during all the rest of this King's Reign, being near seven Years after, and was further discontinued, until the middle of that of *Edward the First*; in whose Eighteenth Year, the Doctor hath discover'd an old blind Writ not enter'd on any Roll, but written in a loose Schedule, which he wou'd needs have to be a Writ of Summons to the *Commons* to come to a Parliament at *Westminster*, therefore this he will have to be the first that was ever issued out to that purpose in this King's Reign.

Having given you a short view of the Doctor's Notions, I shall next set down the Authorities and Reasons he brings to support them: And to begin with the Remainder of the Reign of *Henry the Third*, he asserts that the *Commons* were never mention'd in any Record or Statute of this King since the Forty ninth; for after his Victory at *Evesham*, *Matt. Paris* relates that He call'd a Parliament at *Winchester*,^{1b p. 144.} to which we do not find any *Commons* summon'd, as before; but the King by the Advice of his *Magnates* Alone, seiz'd the Liberties of the City of *London*, and also they gave Him all the Lands of the said *Rebels*.

The Doctor being very short in what he says concerning the manner of the making the *Dictum de Kenelworth*, I shall give you a fuller Relation of it from *Matt. Paris*, who writes that there was another Parliament summon'd the Year following at *Kenelworth*, where it was agreed by the Common Assent of the *Bishops*, *Abbots*, *Priors*, *Earls*, *Barons*, and *All Others* there present, that six Persons by them chosen, being all (except one) either *Bishops* or *Barons*, should name six Others, and the whole Twelve to judge concerning those who were disinherited for their late *Rebellion*; and their Determination or Award is called *Dictum de Kenelworth*, which was made to abate the Rigour of the late Parliament at *Winchester*, whereby all those that took part with *Montfort* were declared to have forfeited

feited their Estates ; for that being found too severe, to encourage several of the Barons to come in and desist from their *Rebellion*, it was by this Award or Sentence ordain'd, that the Persons so disinherited might compound for five Years Value of their Estates.

This Sentence or Award (as the Doctor says) was drawn up by several Commissioners nominated by the Parliament, being all Bishops or Great Earls, or Barons, and *no Commoners* among them ; from whence he infers, that had there been any *Commons* in this Parliament, they would certainly have had Commissioners of their own Order, as well as the Bishops and Lords.

Before I return an Answer to these Arguments, which the Doctor hath brought from these two last Parliaments and their Proceedings, I cannot but observe upon his first Reason, why King *Henry the Third* should not think fit to summon the *Commons* during the rest of his Reign, *because*, says he, *it was first began by Montfort during his Rebellion* ; which will prove no sufficient Reason at all, if it be looked into, and that from the Account the Doctor himself has given of it, *viz.* the great Fear *Montfort* had of the too great Concourse of the *Earls, Barons, and Tenants in Capite* with their Retinues ; for if this were a sufficient Cause for *Montfort* to leave them out the last Year, it made much more for the King's Interest to do the same in this ; since it was the too great Power of these *Barons and Tenants in Capite*, that the King was then most afraid of, for they were the same Men, who had impos'd upon Him the late *Oxford Provisions*, and therefore there was very good reason again to summon the *Commons*, to counterbalance the exorbitant Power of the Greater Nobility.

But to say somewhat to the Authorities the Doctor hath brought from the Parliaments of *Winchester* and *Kenelworth* ; the Rolls of the former are lost, and there is no more left of them on *Record*, than that Writ, or Commission, which the Doctor hath given us, which recites, that by the unanimous Consent of all the *Magnatum* or Great Men, the King had granted Him the Seisin and Possession of all the *Rebel's* Estates, in the late War ; which is no Argument to prove, that *No Commons* were there, since I have so often made it plain, that under this Word *Magnates*, not only the *Knights of Shires*, but *Citizens* and *Burgesses* were frequently comprehended. 'Tis true, there were no Writsextant to prove the *Commons* were then positively summon'd ; neither is there any reason to believe there were ever any to induce the contrary ; for if it were a wise Invention of *Montfort* to summon the *Knights, Citizens, and Burgesses*, to abate the Power of the *Tenants in Capite*, it was certainly as good Policy for this King to continue it. But to add somewhat more concerning this Parliament at *Kenelworth*, I shall admit all the matter of Fact to be true as it is related from *Matt. Westminster*, who says, that the Twelve Commissioners appointed to draw up the Statute then to be made, were chosen *de Potentioribus Procerum, & Prudentioribus Prælatorum*, and also the *French Record* (cited by the Doctor) together with Sir *William Dugdale's* Comment upon it, makes it out plain enough, that the *Lay-Commissioners*, who were chosen by all the Parties there named, to make this Statute, were all Great Earls and Barons, tho' in the *Record* it self only stil'd *Knights*.

Well,

Well, what follows from all this? that the *Commons* (says the Doctor) could have no hand in this choice, because the *tous Autres*, or *Omnes Alii*, mention'd in this and other Records, must needs always signify the smaller Tenants *in Capite*: But I think those Words may with much greater Probability mean the *Commons* as now taken, unless the Doctor could bring any positive proof to the contrary, since they were summon'd but the last Year, and why they should not be so now, I can see no reason, but rather the contrary, as I have already shewn: And if this Argument be good, that *no Commoners* were there, because none of them were chosen *Commissioners* for drawing up this Judgment of *Kenelworth*, then by the same Rule none of the ordinary Tenants *in Capite* were there neither, because none under the degree of an Earl or Baron was elected to be a Commissioner to draw up that Statute.

But as for the Silence of the *Historians*, and their not mentioning the *Commons* to be summon'd to Parliament during the rest of this King's Reign, that were indeed a considerable Argument, if they had ever mention'd their being summon'd in the Forty ninth Year; but that they never did, is clear from the Silence of *William of Rishanger*, the Continuator of *Matt. Paris* and *Matt. Westminster* concerning this Parliament; the latter wholly omitting it, as also that at *Winchester*, and mentions only one held at *Westminster* at *Christmas*, in the Year 1266. where he says the *Nobles* of the Kingdom assembled together; and then he proceeds to that summon'd to *Kenelworth* the same Year; where his Words are *Clerus & Populus convocantur*, both Clergy and People were summon'd. Now I have already proved, that under these last Words, by both these Authors, the *Commons* as well as the Lords are often comprehended; as they may likewise be by the following Phrase concerning the Parliament at *Westminster* the next Year, which the King held *cum Potentioribus Terræ suæ*; and that this Word did not only signify the Greater Nobility, in this Author, appears by what he says before in the Year 1265, when after the Battle of *Evesham* the King came to *Windsor*, and there committed the *Potentiores Civitatis* London (the most powerful or eminent Citizens) to Prison: And indeed *Thomas Wikes* is the only Author that expressly mentions this Parliament of the Forty ninth of *Henry the Third*; and tho' not beginning the Year until our *Lady-day*, he places it under *A. D. 1264*, when on the twentieth day after *Christmas*, they were summon'd by the Earl of *Leicester*, (*Simon Montfort*) *facta est London Convocatio non minima Procerum Anglicorum*, says my Author; from which Words I argue thus, either that he intended thereby to comprehend the *Commons*, that were summon'd to this Parliament, or he did not; if the latter, and that he omitted to mention them thro' Carelessness or Neglect, why might not *Matt. Paris* and *Matt. Westminster* do so likewise? but if the former be true, (as it is most likely) then the Words *Convocatio Procerum* must there signify All the Estates or Constituent Members of this Parliament; and of the same signification is that Expression in *Matt. Paris*, *Magna Nobilium Multitudo*, which includes the smaller, as well as the greater Nobility, now comprehended under *Lords* and *Commons*: So that if the Word *Proceres* be of so large an extent in this Author, I can see no reason, why

R

Others

Others may not make use of it in the same Sense, as well as He.

But perhaps it will be further objected by those of the other Opinion, that King Henry did so quell the Power of the *Great Lords* and *Tenants in Capite*, at the Battel of *Evesham*, that He was in no more apprehension of any thing they could do against Him, and therefore He had no occasion to summon the *Commons* again to balance them. And that according to the Authority of Mr. *Cambden's* nameless Author, cited in his Preface, *after the Confusions of the late War, only those Earls and Barons, and no Others, came to Parliament, to whom the King vouchsafed to direct his Writs of Summons* : To this it may be answer'd,

* *Tit. of Hon.*
p. 589.

That, *First*, the Authority of this Writer, cited by Mr. *Cambden*, may very well be question'd, because he doth not tell us, who he was, nor in what time he lived ; and * Mr. *Selden* hath given us very good Reasons not to give any credit to his Authority ; but suppose we shou'd grant it to be good, yet it makes rather against the Antiquity of the House of *Peers*, than against the *Commons* as now constituted ; for having thus humbled the Power of the *Great Lords* and *Tenants in Capite*, there could be no better way to make a Counter-balance against it, than continuing the *Knights of Shires* and *Representatives of Cities and Boroughs* in his future Parliaments ; for I have already proved, that the former were neither always chosen out of the *Tenants in Capite*, nor did represent them Alone, as Dr. *Brady* supposes, since they were elected by all those that ow'd Suit and Service to the County-Court ; and as for the *Citizens* and *Burgesses*, tho' some of them were *Tenants in Capite*, yet the Major part of them were otherwise ; so that if the King would have any Parliament at all, his safest way must have been to continue it after that Model which *Simon Monfort* is supposed to have began.

† *B. A. P.*
p. 144, 145.

The † Doctor's next Authority is from the Statute of *Marlebridge*, made in the Fifty second Year of this King, for the confirming and establishing (as it were) the Body of the Law of this Nation, the Preamble whereof is to this effect: *That by the Care and Providence of the King Himself, for the Melioration of his Kingdom, and the more full exhibition of Justice, there were call'd together the more Discreet Persons of the same Kingdom, as well the Greater as the Less sort, by whom the Provisions, Establishments, Agreements and Ordinances in this Statute comprehended, were made* : Upon this Preamble the Doctor observes, *First*, that all the *Great Barons* were not present at the making of this Statute, but only the more Discreet, viz. such as the King thought fit to call, who were summon'd always by particular Writs. *Secondly*, that neither were all the *Less Barons* or *Tenants in Capite* present in this Parliament, but only the more Discreet Persons among them, and these call'd by the King, and in all probability by particular Directions ; for by a General Summons, according to King *John's* Charter, directed to the Sheriff of each County, to summon all the *Minor Barons* and *Tenants in Capite*, it could not be, that only the more Discreet Persons of them shou'd be call'd together ; nor is there in this Preamble the least hint, or intimation, of any Writs directed to *Counties, Cities* or *Burghs*, for the choice of Members.

Thirdly,

Thirdly, from the sixth Chapter of this Statute, which was One of the chief Laws contain'd in it, the Doctor observes, that *Britton* says it was made, *per la purveiance de Robert Walerand, and by Common Assent of the Great Lords of the Realm*. The Doctor farther notes, that *Robert Walerand* was a Baron, a Soldier, and Lawyer, and died in the First of *Edward the First*, and that *Britton* lived at this time, and well understood the *Constitutions* of Parliaments, and wrote his Books of the Laws of *England*, bearing that name, in the time of King *Edward* aforesaid, and by his Direction, and so leaves the rest to the Judgment of the Reader.

In answer to this I cannot but observe, that the Doctor being transported with high and arbitrary Notions of the King's Prerogative, hath not only destroy'd whatsoever he hath before asserted concerning King *John's* Charter, as being intended for a Form or Model to all future Parliaments during the Reigns of that King and his Son *Henry the Third*; but also will have it, that this Prince was so flush'd with Victory at *Evesham*, that He not only took upon Him to make Laws without any of the Tenants *in Capite*, but also without the Consent of all the Bishops, Earls and Barons of the Kingdom; and only such Lords met as the King was pleas'd to summon to this Parliament: By which he hath shewn an easy way, how any other future King may deal with Parliaments whenever He hath got the Power in his Hands, *which is, to admit and exclude whom He pleases, and turn the Great Council of the Kingdom into a French Assembly des Notables*.

But I hope I shall shew, that the Doctor's Interpretation and Comment upon this Chapter are forced, and contrary to the true Intent and Meaning thereof; in order to which give me leave in the first place to observe, that there is no certain Conclusion to be drawn from the different Forms of penning of antient Statutes, nor who were summon'd to the making of them, nor by whom they were enacted; some of them (it is true) are drawn in the Form of the King's Charters or Writs, without any mention of Assent either of the *Lords* or *Commons*; Others are said to be enacted by *the whole Realm*, without any mention of the *King* at all; and I could have given you a List of divers old Statutes from the Reign of King *Henry the Third* to the time of King *Edward the Third*, in which there is no mention at all made, either of the King, or any other of the Three Estates; and yet no Man, I think, will deny that these Statutes were made and agreed to by them All according to the usual Custom, tho' it be not particularly expressed; and therefore to give a better Account of this Law, it is fit we consider, that these Words, *evocatis Discretioribus Regni*, are no more restrictive to some particular Persons than if it had been in the superlative Degree, and instead of *Discretioribus* it had been *Discretissimis*, or *Sapientissimis Regni*, which no Man can suppose to mean only a few of those whom the King should judge the Wisest and most Discreet Men of the whole Kingdom; and therefore we must not attend only to the meer Grammatical, but Legal Sense of these words, and then it amounts to no more than this, that by the *Discreet Men* of the Higher Degree were meant the *Lords Spiritual and Temporal*, and under those of the Lower Order were intended the *Commons*.

What the Doctor says concerning *Robert Walerand*, is not material, for supposing him to be never so great a Soldier, or Lawyer, yet he had nothing to do to propose or offer this Law, but as he was one of the King's Council in Parliament, whose Business it was to draw up and prepare those Bills, which being there approved of, were to be past into Statutes; and therefore *Britton* might very well say, that this Law was made by the *Provison* or Foresight of this *Robert Walerand*, with the common Assent of the *Great Lords*, as the most eminent Persons that had to do in it; and yet for all that the *Commons* might likewise give their Consents to it, for otherwise if *Britton* must be literally understood, what becomes of the *Discreti. de Minoribus*, mention'd in this Statute to have given their Consents, as well as the *Majores*? whereas this Author mentions none at whose Request it was made, but the *Great Lords* only.

* *Ib. p. 145.*

From this Reign the * Doctor proceeds to that of *Edward the First*, who, he says in the beginning, and for several Years of his Reign and Government (for ought appears from divers Statutes then made, and other Records) did not issue out Writs for the Election of *Knights, Citizens, and Burgessees*, as at this Day, but used the same way and course of summoning and holding Parliaments, as his Father had done before him. In answer to this of the Statutes, we shall come to them immediately after one word. As to the want of Writs of Summons to the *Commons* it is no Objection, since all the Writs of that kind, to the *Bishops and Lords*, are likewise lost or destroy'd, for the first twenty four Years of this King's Reign.

* *Claus. 3. Ed. 1.*
M. 21. Dorf.

And for the Statutes, the Doctor begins with that of *Westminster*, which is said to be made by the Assent of the Archbishops, Bishops, Abbots, Priors, Earls, Barons, and the *Whole Community or Commonalty of the Land* thither summon'd; by which last words the Doctor would needs have to be understood the *less Barons* and Tenants *in Capite*; and that there were no Other *Representatives* of the *Commons* there, he likewise endeavours to prove by the * Writ of Summons directed to the Archbishop of *Canterbury*, for the Prorogation of this Parliament, in which is recited, that the Parliament which was to meet on the *Quindene* of the *Purification*, &c. being for some Causes prorogued until the Morrow after the close of *Easter* next following, the King commands and requires the said Archbishop to be present at the same, to Treat and Ordain, together with the *Prelates* and *Great Men* of the Kingdom concerning the Business of the same, &c.

By this Writ the Doctor thinks we may see the King's purpose to hold a General Parliament with the *Prelates* and *Great Men* of his Kingdom only; which words *Great Men* very frequently comprehended, as I have said more than once and again, as well the *Barones Majores*, as *Minores*, the Earls, Barons, and greater Tenants *in Capite*, and the less, which he takes then to have been the *Community* of the Kingdom.

In answer to this, Since I have already shewn from divers Precedents, and particularly that of the Forty ninth of *Henry the Third*, that the *Latin* Phrases *Communitas Regni*, and the *French*, *la Commune de la Terre*, are not the Body of the Tenants *in Capite*, but that of the *Whole Commons* of England represented by *Knights, Citizens,*

tizens, and *Burgesſes* are to be underſtood, I ſhall ſay the leſs to this Interpretation, only ſhew the abſurdity of the Doctor's Notion in it, and for the entire ſatisfaction of the Reader in this Point, I will cite ſome Precedents from Records and Acts of Parliament of this King and his Succeſſor. The firſt is, that Statute or Ordinance made in King *Edward the Firſt's* Reign, tho' the Year when is uncertain; but the Title of it tranſlated out of *French* is thus; *Theſe are the Uſages which the Commonalty of Kent claim to have in Tenements held by Gavel-kind*. Now Gavel-kind Lands being generally in *Socage*, the Owners of them could not have been call'd the *Commonalty of Kent*, had that Expreſſion only ſignified Tenants *in Capite* by *Knight's Service*.

I come now to ſome Statutes and Records of a more general extent; for in the Reign of *Edward the Second*, when by the Doctor's own Confeſſion the *Commons*, as now *Represented*, were preſent in all Parliaments, the ſame Word often occurs, and muſt therefore be underſtood in the ſame ſenſe as in the Act of Pardon for the Death of *Piers Gavęſton* made in the Seventh of this King, and drawn up in *French*, which is granted by the King with the Archbiſhops, Biſhops, Abbots, Priors, Earls, Barons, and the *whole Commonalty of the Realm* there aſſembled: So alſo in the *Latin* Records, as appears by an Act of Pardon granted in Parliament in the twelfth Year of this King: Add likewiſe the Statute of *York*, of the ſame Year, written in *French*, which is recited to have been made *per aſſent des Prelats, Counts, Barons, & la Commune du Royaume illoꝝques Aſſemblez*; where you ſee, that the *Latin* word *Communitas*, and the *French* *la Commune*, ſignifie the ſame Order of Men. And the like Form is continued in many other Statutes made in the Reigns of King *Edward the Third*, *Richard the Second*, and other ſucceeding Kings, of which I could give divers Inſtances if it were neceſſary; and I deſire to aſk the Gentlemen of the Doctor's Opinion, whether by theſe Phraſes the Tenants *in Capite*, or the *Commons* as now *Represented*, are to be underſtood: They cannot ſay the former, ſince they had for ſeveral Years diſuſed to appear in Parliament in a Body, as the Doctor himſelf acknowledges; but if they will own the Latter (as I think they muſt) I ſhould be glad to ſee any good reaſon, why the ſame Phraſes ſhould not ſignifie the ſame Perſons in the Reign of *Henry the Third*, and until the Eighteenth Year of *Edward the Firſt*: But perhaps they will ſay, that they were not till then ſummon'd to Parliament, after the Forty ninth of *Henry the Third*: This is to beg the Queſtion; and whether they have yet proved that Point, by what hath been already alledg'd by their Doctor, muſt be left to the Judgment of the Impartial Reader.

But what the Doctor would infer from the words of the Writ directed to the Archbiſhop of *Canterbury*, is yet more trivial; for He grants, that the Writs of Summons to this Parliament are loſt, tho' it is very likely they were enter'd either upon the Precedent Roll, or elſe on the ſame with this cited by the Doctor; yet from this he erroneouſly infers, that by the word *Magnates* or Great Men, put after the Prelates, the greater and leſs Tenants *in Capite* are to be underſtood; whereas whoever would but conſult the like Forms of Writs in Sir *William Dugdale's* Summons to Parliament, from the

Twenty fourth to the end of this King's Reign, will in most of them find the same Expressions *ad Ordinandum & Tractandum cum Prælati & Magnatibus Regni*, in the Writs of Summons to the Commons, as they are also in several other succeeding King's Reigns.

The Doctor's next Authority is from the Statute *de Bigamis*, suppos'd to be made in the same Year with the Parliament last mention'd, in the Preamble of which it is recited to this effect, (as is here translated) *In the Presence of the Venerable Fathers, some of the Bishops of England, and Others of the King's Council, the underwritten Constitutions were recited, and afterwards they were heard, or read, and published before the King and his Council, and because All of his Council, as well Justiciaries as Others, agreed, that they should be written for perpetual Memory, and firmly observed, &c.*

In the following Paragraph the Doctor finds fault with Sir Edward Coke, for observing, that this Assembly of the Bishops and Others of the King's Council, expressed under these Words, *& Aliorum de Concilio Regis*, were only to shew they were a select Committee of Bishops, Barons and Judges, who were to draw up this Statute, and then to report and publish it before the King and his Council in Parliament, expressed by these Words, *Audita & Publicata*, in the Preamble: This the Doctor finds fault with, as not having any Sense or Meaning in the words, which whether they have or no, I must leave it (as the Doctor doth) to the judicious Reader to decide: But in the following * Page he grants sufficient for our Purpose, in these words, 'Whether this was a Parliament, 'or what were the Constituent Parts of a Parliament at this time, 'or of this Parliament in particular, I think it is neither so easie 'nor plain to determine as Sir Edward would have it to be; perhaps the best understanding of the Preamble and first Chapter 'may be, that the Laws and Constitutions were prepared by the 'King and his Council, with the Assistance of the Justices and Lawyers that were of it, or called to assist in it, and declared afterward in Parliament; for it is said in the Close of the Statute, 'that the same Constitutions were published at Westminster in a Parliament after the Feast of St. Michael, in the Fourth Year of King 'Edward the Son of King Henry, and from that Time they shall take 'Place. From whence we may observe, that let these Constitutions be prepar'd by whom the Doctor pleases, they had no binding Authority upon the Nation, until they were published (that is passed) in full Parliament.

* *Ibid.* p. 148.

Ibid.

Then the Doctor proceeds to the Preamble of the Statute of Gloucester, which is said to be made in the Year of Grace A. D. 1276, (tho' erroneously, for it shou'd be 1278) which was the 6th of Edward the First, wherein it is recited, *that the King, for the Reasons there set down, having call'd the most Discreet Persons of his Realm, auxibien des Greindres come des Meindres*, that is, *as well of the Greater, as the Less, it is Established and Ordain'd*; This Preamble (says the Doctor) is almost the very same with that to the Statute of Marlebridge, and therefore he will say nothing further of it; and only adds, that by the Preface to the Statute of Westminster the Second, made in the Thirteenth of Edward the First, it appears, that the Prelates, Earls, Barons,

Barons, and the King's Council, were the Constituent Parts of this, or some other Parliament, held at *Glocester*, that Year. I need say no more, than the Doctor hath here done, concerning the Meaning of the words in this Statute, of the Greater, as well as *Less sort of Wise Men*, and I shall leave it to the Reader's Judgment to consider, whether by those words the *Lords and Commons* are not more likely to be understood, than the *Prelates, Earls and Barons*, and *Others* of the King's Council Alone, which last, I never heard to have been one of the *Estates* of Parliament before; nor doth the Statute the Doctor cites countenance his Opinion, for tho' that of *Westminster* the *Second* recites, that the King had lately on the *Quintene* of *St. John the Baptist*, in the Sixth Year of his Reign, call'd together the Prelates, Earls, Barons, and his Council at *Glocester*, yet it is not there said, that the *Council* had any hand in the *enacting* of those Statutes, tho' they might draw them up into Form.

His next Instance is, from the Statute of *Mort-main*, which was *Ibid.* made by King *Edward the First* in the Seventh Year of his Reign, by advice of the Prelates, Earls, Barons, and *Other Lieges* of his Kingdom, *being of his Council*; where the Doctor understands the words *de Concilio*, to mean the King's Council in Parliament, as if their Consents had been necessary to the *enacting* of this Statute; whereas in truth the words *Aliorum Fidelium de Concilio Nostro*, are only words of Form, or else are to be understood of the *Commons* as part of the *Great Council* of the Kingdom.

The Doctor's last Instance is, the Statute of *Acton-Burnel* or Statute *Merchant* of the Eleventh of *Edward the First*, which was made by the King Himself and his whole Council, *Le Roy, per Luy & per tout son Conseil, ad Ordain & Establie, Que Merchant, &c.* and this was done in Parliament, as appears by the Statute of *Merchants*, made in the *Thirteenth* Year of the same King, by these words in the *French Preamble*, which is thus in *English*: *Our Lord the King by Himself and by his Council, at his Parliament which He held at Acton-Burnel, in the Eleventh Year of his Reign, Made and Ordain'd these Establishments, &c.* by which the Doctor hath recited enough for my Purpose; for it might very well be, that tho' this Statute was made (that is, drawn up and approved of) by the King and his whole Council, yet it appears by the Preamble to this last Statute which recites it, that it was *Enacted* in the Parliament at *Acton Burnel*, and if so, must have had the Consents of *All the Estates* there present, as well as the King; but as for his Council in Parliaments having any hand in the making of a Statute, any further than the drawing it into Form, we are beholding to the Doctor for that rare Discovery; since I do not find any, either *Antiquary* or *Lawyer*, who is of that Opinion, besides himself.

But we are now come to the Critical time, when the Doctor supposes the *Knights of Shires* were again summon'd to Parliament, after a long Intermiſſion, from the 49th of *Henry the Third* to the 18th Year of this King, when the Prelates, Earls, Barons, and Great Men of the Kingdom, with *one Assent* in full Parliament granted to Him *Forty Shillings* of every *Knight's Fee*, for an Aid to marry his Daughter, for themselves, and the *Whole Community* of the Kingdom,

as appears on Record : Then the Doctor cites a Writ of the Thirtieth of *Edward the First*, for the levying the *said Forty Shillings* on every *Knight's Fee*, which it seems had been hitherto superceded, but this the King commanded then to be paid in with all Expedition. I have omitted setting down this Writ at large, because I have already recited the most material parts of it, in what I have said for the proving of the words *Communitas Regni* to signify in this King's Reign, the *Representatives* of the *Commons* as now understood, and not the less *Tenants in Capite* ; but the Doctor makes use of it as a Foundation to build his *Hypothesis* upon, that the *Knights of Shires* were not summon'd to appear at the beginning of this Parliament, nor till toward the latter end of it, and to prove it, he thus proceeds with great Confidence.

Ibid. p. 149.

Hitherto (says the Doctor) in this King's Reign, there appears nothing that can evince either the *summoning*, or *being* of any *Commons*, as now understood, or any *Knights*, *Citizens*, or *Burgesses*, in any of these Parliaments, we are at least left in Uncertainties ; nay, the Proof is most strong on the *Negative*, that there were none. Yet in this Year, *viz.* the Eighteenth of *Edward the First*, there is a Bundle of Writs, directed to the Sheriffs of several, or most of the Counties of *England*, and they are the Antientest extant, or perhaps that ever were ; for (in probability) the calling of *Knights*, *Citizens*, and *Burgesses*, according to that Example, was discontinued from the 49th of *Henry the Third* unto this time, by which two or three *Knights* were directed to be chosen for each County. The Writ it self follows, which since the Doctor lays so much stress upon, I shall give you in *English*.

Edward by the Grace of God, King of *England*, Lord of *Ireland*, and Duke of *Aquitain*, to the Sheriff of *Westmorland*, Greeting ; whereas We have been especially petition'd, and requested by the *Earls*, *Barons*, and *Others* the *Great Men* of our Kingdom, concerning certain matters, upon which We will have Conference and Treaty, as well with themselves, as with Others of the Counties of that Kingdom, We command thee, without delay, that thou cause to be chosen two or three of the most discreet and ablest *Knights* for the dispatch of Business of the County aforesaid, and cause them to come to Us at *Westminster*, so that they be there in three Weeks, after the Feast of *St. John Baptist* at furthest, with full Power for themselves, and the *Whole Community* of the County aforesaid, to consult and consent for themselves, and that *Community*, to such things, which the *Earls*, *Barons*, and *Great Men* aforesaid, shall there think fit to agree upon ; and you are to have there this Writ ; Witness my self at *Westminster*, the fourteenth day of *June*, in the *Eighteenth* Year of our Reign.

From which Writ, and what went before, the Doctor draws these following Observations : On the first of this Month, the King had *Sentage* given Him in *full Parliament* ; fourteen days after, at the instance of the *Earls*, *Barons*, and other *Great Men* of the Kingdom, upon certain Matters by them moved, and propounded to Him, He issued this Writ of *Summons* to the Sheriffs of the several Counties, to cause to be chosen two or three *Knights* of each County, to come to Him at *Westminster*, three Weeks after *St. John Baptist*, (which is the Eighth of *July*) at farthest.

Upon

Upon this Writ, it may be observed, *First*, that it is most probable, (tho' it is not here absolutely said so) that the King was moved by the Earls, Barons, and Great Men of the Kingdom, to call these *Knights* to this Parliament; and that as this Writ is the first to be found after that of the Forty ninth of *Henry the Third*, so it really was the *first Writ* of Summons after that time, for the *Election* of *Knights* to represent the several Counties.

Secondly, that there could be no *Citizens* nor *Burgeffes* chosen or sent to this Parliament by vertue of this *Writ*, as they were afterward by particular Directions contain'd in the *Writs* sent to the Sheriffs for electing *Knights* of the *Shire*.

Thirdly, that by this Writ, the *Knights* were to come to the King at *Westminster*, three Weeks after *St. John Baptist*, at farthest, which was the fifteenth of *July*; that in the same Year, between the time of the Date of the *Writ*, and the time appointed for meeting of the *Knights*, the Statute of *Westminster* the *Third* was made; so that this was either the same full Parliament, which gave the King *Scutage* on the first of *June*, and then the King and *Barons*, without the *Commons*, made this Statute, or the *Knights* had another *Summons* after the Date of this *Writ*, (for before that they were not a Parliament) or the *Knights* came a Week before they had need to have done; but neither of the latter are probable, seeing the *Knights* were then great Husbands of their Time and Expences, and were not very forward to undertake this Service, as being constantly bound with, or engaged by *Sureties* or *Manncaptors*, for the performance of it, and their appearance in Parliament; and therefore it seems reasonable to conclude, that this Law was made without them, and before their coming to Parliament.

I have given you the Doctor's Argument at large, tho' it be somewhat tedious, and (as I hope to shew) built upon a false Foundation, *viz.* that at the Parliament above-mention'd, the *Knights* of *Shires* were not summon'd, nor were present at the beginning of this Parliament, nor some Weeks after, until the *Scutage* of *Forty Shillings* upon each *Knight's Fee* had been granted in Parliament above five Weeks after the Parliament had began to sit; but if the Doctor's Foundation proves false, and that this Parliament was dissolved before ever these *Knights* were summon'd to it, then all that he hath built upon that, is false and precarious; for I am as confident as I can be of any thing, considering the *Writs* of Summons to the *Lords*, as well as the *Commons* are lost and torn off from the Rolls, that the *Knights* of *Shires* were summon'd to this Parliament, as appears by this Tax above-mention'd, which is said to be granted by the *Prelates*, Earls, Barons, and Other Great Men of the Kingdom, *pro se & tota Communitate*, i. e. for themselves and the Whole Community of the same in full Parliament. Now I have already proved, that by the words, *tota Communitas Regni*, is to be understood the Community or Body of the *Commons* taken distinctly from the rest of the Orders aforegoing, and that it is likewise taken in that Sense in the Forty ninth of *Henry the Third*, and in divers other Parliaments that were held during his Reign, as also that they were summon'd to the Parliaments and Great Councils in the beginning of this King's Reign we are now treating of; so that whether the

Doctor says true, that hitherto in this King's Reign there appears nothing that can evince either the *summoning* or *being* of any *Commons*, as now understood, in any of these Parliaments, and that the Proof is most strong in the *Negative*, that there were None, must be left to the Reader's Judgment, when he hath perused what can be produced on both sides. But to come closer to the matter, the Doctor in his * *Glossary* grants, that by the words, *tota Communitas Regni*, that gave this *Scutage* mention'd in the Writ above-cited, is meant the *Whole Community* of the less Tenants *in Capite*, that granted and paid it first for themselves and their Tenants in Military Service, who then were oblig'd by the King's Writ to pay them again: Now let us suppose for once that all this is true, I would be glad to know of those of the Doctor's Opinion, of what sort of Men these two or three *Knights* were, whom the Doctor supposes to be summon'd to appear at the latter end of this Parliament, whether were they Tenants *in Capite* themselves? Or were they some of their *Inferior* Tenants by *Knight's-Service* or *Soccage-Tenure*? If these Gentlemen will say, they were the former sort, why shou'd the Lords and *Great Men* desire the King to *summon* two or three *Knights*, who were Tenants *in Capite*, to this Parliament, when all or the greater part of them were present in this Parliament, and had given this *Scutage-Tax* a Fortnight before the Writs for *summoning* these *Knights* were issued out? But if they will say, that they were not Tenants *in Capite*, but their *Inferior Military* Tenants, then the Doctor's so positive Assertion is false, that at first the *Knights* of *Shires* were chosen out of the greatest Tenants *in Capite* under the Degree of *Barons*; and then it will not be so incredible, as he there makes it, that those Tenants *in Capite* would part with this main point, of *being personally present, or the Body of them represented by some of their own number in every County*: How contradictory this new Discovery of the Doctor's is to what he asserts in other places, I leave to the Reader to judge? as also, whether he had any settled Principles concerning the Subject he wrote of, but only such as would serve the present turn or Notion he had broach'd, and was resolved right or wrong to maintain?

And therefore I think we may very well assert, that these *Knights* mention'd in the Writ the Doctor hath cited, were either summon'd to this Parliament in Assistance or Addition to the two other *Knights*, who had been sent up before to this Parliament, or else came up after it was dissolved; the former of these the Doctor's Friends can have no reason to oppose, since in the very Page where he concludes his Argument, he likewise asserts, *that the King in this Age was not confin'd to any certain number of Knights, Citizens or Burgeses*; and for the Proof of it the * Doctor cites two Writs of the Twenty second of this King, to the Sheriff of *Northumberland*; by the first of which He commands him to summon two *Discreet Knights* of the said County, to appear at a *Colloquy* or *Treaty* at *Westminster*, which was to be on the morrow of *St. Martin* next coming, to advise and consent for themselves and the *Whole Community* of the said County, to those things which the *Earls, Barons, and Great Men* aforesaid, shou'd unanimously ordain concerning the Premises, &c. this bears date the eighth of *October*,

* P. 32, 33.

B.A.J. p. 214.

Ib. p. 151.

* Rot. Claus.
22 Ed. I. M. 6.
Dorf.

October, immediately after which, the King issued out another like Writ to the same Sheriff, commanding him, besides the two former, that he shou'd cause two *Other Knights* to be chosen, and to come to *Westminster* together with them; this bears date *Octob.* the 9th. Now if what the Doctor asserts in the same place be true, that some Legal Niceties and Punctilioes, now in Use, (concerning Parliamentary Proceedings) were not then judged absolutely necessary, I cannot see any reason, why the King might not have order'd two or three *New Knights* to be chosen for each *Shire*, and to be added to the former that were summon'd to Parliament already, six Weeks after the Parliament had sat, as well as to order it a day after the first Writ, as in the next Instance produced by the Doctor.

But to speak freely, I make use of this only as *Argumentum ad Hominem*; for in my Opinion, not only this Writ of the Eighteenth of *Edward the First*, but also those of the Twenty second, for the electing of *Four Knights*, are not for them to come to *Parliaments* properly so call'd, but only to certain *Councils*, *Colloquies*, or *Treaties*, which both this King as well as his Father often held with the Bishops, Earls, and Barons, when they would have their Advice upon any great or extraordinary Occasion; such as the making *Peace* or *War*, or for ordaining temporary *Ordinances* concerning matters of *Trade*, as the Exportation and Importation of Commodities, and other things of less moment, when the King did not think it worth the trouble of calling a *Parliament*; or else that the Matter fell out so suddenly, that the King could not stay till they could all meet, which then required *Forty Days*, as well as it does now. Yet that to these extraordinary Councils some of the *Knights*, *Citizens*, and *Burgesses* were often summon'd, must be granted even by those of the contrary Opinion, since they cannot deny matter of *Fact*, in the Instances I have brought, concerning the *Representatives* of the *Commons* being summon'd to the Great Council that was held in the beginning of this King's Reign, when *All the Estates* of the Kingdom were assembled at *Westminster* to swear Allegiance to Him; as also *That* held in the Eleventh Year of this King, to advise about the Condemnation of Prince *David*; so that Dr. Brady's Friends may take their choice, either to call them *Parliaments*, or *Great Councils*; if they were the former, they give up the Point they would maintain, viz. that there were *No Commons* summon'd to any Parliament of this King, until this Year we are now treating of; but if they say that these were only *Great Councils*, then those Assemblies, to which these two or three *Knights* were summon'd, in the 18th and 22d of this King, might be to such *Great Councils*, and not to *Parliaments* properly so call'd: And that it was so, appears by the Titles on the Margins of each of them, which are, *de Militibus eligendis & mittendis ad Concilium*; tho' the Doctor (the better to countenance his Opinion) hath been pleased to wave the setting down the Titles that are in the Margin of these loose Writs, of the Eighteenth, on which he founds this new Discovery: But that there is a plain and manifest difference between *Writs* of *Summons* to *Parliaments*, and those to *Great Councils*, the Reader may consult Sir *William Dugdale's* Parliamentary Writs of Summons to the Bishops and Lords, in which, tho' he

hath partially omitted those to the *Commons*, for they are also enter'd upon the same Rolls, yet in those he has publish'd, not only the Titles to them, but even the very Body of the Writs themselves sufficiently distinguish between those two different Assemblies; the Writs to Great Councils only reciting, (as these the Doctor hath given us) that *the King would have with his Earls, Barons, and other Great Men of his Kingdom, Colloquium & Tractatum*, that is, a Colloquy or Treaty, or else a *Colloquium* with the *Knights of Shires* alone, as it is in this Writ of the Eighteenth we are now treating of; but when the Summons is to a Parliament, it is *most commonly* not only so express'd in the Title, but in the very Body of the Writ, *that the King intends to have a Parliament at Westminster, or elsewhere*; and that this Distinction is not only found in *Writs of Summons*, but in antient Statutes themselves, appears by that *Ordinance* or *Statute* against coming to Parliament with Armour, which tho' it be printed in *Rastal*, as made in the Seventh Year of *Edward the First*, yet doth indeed belong to that of his Son *Edward the Second*, and is a Writ to the Justices of his *Bench*, reciting, ' That
' whereas of late, before certain Persons deputed to treat upon
' sundry Debates had between Us (*i. e.* the King) and certain Great
' Men of our Realm, amongst other things it was accorded, that
' in our next Parliament, *Provison* shou'd be made by Us, with
' the *Common Assent* of the Prelates, Earls and Barons, that in all
' *Parliaments, Treaties, and other Assemblies*, which should be held
' in our Realm of *England* for ever, every Man should come with-
' out *Force*, and without *Armour*, well and peaceably, &c. And
a little lower He doth more plainly distinguish between these two Parliaments that follow; ' And now in our Parliament at *Westmin-*
' *ster* after the said *Treaty*, the Prelates, Earls, Barons, and the *Com-*
' *munity* of our Realm there assembled to take Advice of this Bu-
' siness, have said, *that to Us it belongeth, and our part it is, by our*
' *Royal Seigniorie*, streightly to defend wearing of *Armour*, and all
' other *Force* against our Peace at all times, when it shall please
' Us, and to punish them who shall do contrary, according to the
' *Laws and Usages* of our Realm.

And besides this Statute, whoever will but look over that Treatise which goes under the Name of Sir Robert Cotton's Abridgement of the Records of Parliament, may there observe a manifest Difference between *Parliaments* and *Great Councils* of the Kingdom. And tho' Dr. Brady, to serve a turn, doth here confound these two different Assemblies, yet that he himself, when there is no present occasion for disguising the Truth, doth make a difference between a *Great Council* and a *Parliament*, appears from the * Second Volume of his Compleat History of *England*, wherein from the † Close Roll of *Edward the Third*, he relates, that in the Fourth Year of his Reign, on the sixth of September, He summon'd a *Great Council* to meet at *Nottingham* on the *Munday* before the Feast of St. *Luke*, or *Quindene* of St. *Michael*, where He was better inform'd, and the Practices of his Mother and *Mortimer* were detected, &c. And that this was no Parliament, appears by what follows in the next Paragraph, that when this was done, the King being then at *Leicester*, on the 23d of *October*, summon'd a *Parliament* to meet at *Westminster*,

on

* Page 186.

† Claus. 4.
Ed. III. M. 23.
Dors.

on *Munday* next after the Feast of *St. Catherine*, or 25th of *November*; and the like Councils he takes notice of in other Places of his History, as I could easily shew you if there were occasion.

But I am sensible, tho' it will readily be granted (as indeed it cannot be well denied) that there were such *Great Councils* and *Treaties* different from *Parliaments*, yet that these *Knights*, mention'd in this *Writ* of the Eighteenth of *Edward the First*, (made use of by the Doctor) were not summon'd to such a *Great Council*, but to the *Parliament*, which was then sitting, appears by the words of the *Writ* it self, reciting, that whereas the King had been especially *Petitioned* and *Requested*, by the *Earls*, *Barons*, and *Others* of the *Great Men* of his Kingdom, concerning certain matters, upon which He will have *Conference* and *Treaty*, as well with *Themselves*, as with *Others* of the *Counties* of the Kingdom, &c. from whence the Doctor well observes, that it is very probable, (tho' it is not here absolutely said so) that the King was especially moved by the *Earls*, *Barons*, and *Great Men* of the Kingdom, to call these *Knights* to this *Parliament*; and he also further urges as a thing certain, that these *Knights* came up to this *Parliament* whilst it was still sitting; for it appears by the Statute of *Westminster the Third*, that it continu'd until the eighth of *July*, and the fifteenth was the day appointed for the *Knights* of *Shires* to be at *London*, there to advise and consent to such things as the *Earls*, *Barons*, and *Other Great Men* should think fit to agree upon; which must needs refer to the *Earls* and *Barons* then assembled in *Parliament*, and no *Other*. And as for the Inference I have now made from the words of the *Writ*, that it was to a *Colloquy* or *Treaty*, and not to a *Parliament*, and that in all *Writs* of *Summons* to *Parliaments* the word *Parliament* is expressed either in the *Writ* or in the *Title*, this Rule doth not always hold true, for in the *Writs* on the *Close-Rolls* of the Twenty second of *Edward the First*, (which I my self have already cited) for the summoning *Four Knights* from every County, is only to a *Colloquy* or *Treaty* with the *Earls*, *Barons*, and *Chief Men*, without so much as the word *Parliament* being mention'd, and the *Title* to this first *Writ* being only *de Militibus eligendis & mittendis ad Concilium*: yet that it was not a *Great Council*, but a *Parliament* properly so call'd, appears by another † Record of the same Year, which recites, that upon the very day this *Parliament* met, viz. *Nov. 12.* they gave the King a *Tenth* part of all their *Moveable Goods*; and as likewise appears by the *Writ* or *Commission* for appointing *Assessors*, and *Collectors*, for the same *Tenth*.

Also as to the *Parliament* which was * summon'd to meet the Sunday after *St. Martin*, or 11th of *November*, (being the Twenty third of this King) tho' the *Titles* to the *Writs* are *de Parlamento tenendo*, & *de Parlamento prorogando*, yet in the Body of the *Writ* it self the word *Parliament* is not inserted, but only that the King will have a *Colloquy* or *Treaty* with his *Earls*, *Barons*, and other *Great Men*, as you'll see by the *Writ* it self, which † Dr. Brady hath published at large but two Leaves further; and that this was a *Parliament* appears by another * *Writ* which relates to this very *Parliament*, reciting, that the *Earls*, *Barons*, *Knights*, and *All Others* of the Kingdom,

† Pat. 22.
Ed. I. M. 20
in Scedula.

* Rot. Claus.
23 Ed. I. M. 4.
Dors. de Parlamento tenendo.
Ib. M. 2. Dors. de Parlamento prorogando.
† Page 155.

* Rot. Pat.
24 Ed. I. p. 1.
M. 22.

Kingdom, gave an *Eleventh*, and the *Citizens* and *Burgeses*, and Other Good Men of the King's *Demefns*, gave Him a *Seventh* Part of all their Moveable Goods. And this I take the more notice of, because the Doctor supposes that this was the first Parliament, to which the *Citizens* and *Burgeses* were ever summon'd, from the Forty ninth of *Henry the Third*, to this very Year; but of this Writ I shall say more hereafter.

I will now try what I can to answer these Objections, and as considerable as the Doctor's Arguments may appear, I hope I may have leave to assert, that his Inferences are founded upon bare Suppositions, because the *Writs* of *Summons* to this Parliament, both to the *Lords* and *Commons*, are quite lost and taken off the *Close-Rolls*; so that the main Question between us, is, whether this Writ of *Summons* of the Eighteenth of *Edward the First*, for these two or three *Knights*, was to come to a *Parliament*, or to a *Colloquy* or *Treaty*; that it was not to the former, I must still insist; First, because this Writ is not enter'd on the *Close-Roll*, but was only found (as the Doctor himself acknowledges) in an odd Bundle amongst divers other *Writs* and *Records* of a different nature; neither is it certain whether these *Writs* that remain (being but for twenty five Counties) were ever once entire, and directed to all the rest of the Sheriffs of the Counties; for if they were not, it is evident these could be no *Summons* to a *General Parliament*, and for *Representatives* to be chosen for all the Shires of *England*. And, Secondly, (as I have already observed) there is neither in the Title to the Writ, nor in the Body of it, any mention of these *Knights* being summon'd to treat with the *Lords* and *Great Men* in *Parliament*, but only, that the King would have a *Colloquy* or *Treaty* with them, and those of the Counties; and therefore He enjoins them to be at *Westminster*, at such a day, to advise upon and agree to such things as the Earls, Barons and *Great Men* should think fit to ordain: Which meeting with them, might be as well after this *Parliament* was risen, as before; and that the Business they were to treat about was not *Parliamentary*, such as granting of Money and consenting to Laws, appears from the very words of the Writ it self, which are only *ad Consulendum & Consentiendum*; whereas all *Parliamentary Writs* of the *Commons* that remain upon Record, have always *faciendum* likewise inserted. And tho' I grant that there have been *Common Councils* of the Kingdom, whereto the *Commons* have been summon'd, as the Record now cited (and against which I have nothing to object) doth teach us, and also that sometimes in Writs to *Parliaments*, the word *Colloquium* is used instead of *Parliamentum*; yet however the Title to the Writ of the Twenty third of this King sufficiently declares, that this Assembly was a *Parliament*, and not a meer *Council* or *Treaty*. I confess also that in this King's Reign, the words *Colloquium* and *Parliamentum* (the latter being of a *French*, and the former of a *Latin* Original) were not so nicely distinguish'd, as they were in his Successor's times, but were sometimes used promiscuously, therefore I have only asserted, that in *Writs* of *Summons* the word *Parliament* was most commonly used, when the King intended to summon either the *Lords* or *Commons* to such an Assembly; which that the King did not intend to do by the Writ now in Dispute, appears,

appears from this remarkable Circumstance, that these *Knights* were not summon'd to come to this *Treaty* with the *Lords*, till after all *Parliamentary* Business was dispatch'd and over; for the Doctor hath there shew'd us from the *Record* of the Thirtieth of this King, that the *Scutage* of *Forty Shillings* was granted the 1st of *June*, and the Statute of *Westminster* was enacted not till the 8th of *July*: So that Money being given, and Laws made, which are the Principal Business of all *Parliaments*, I can see nothing *Parliamentary*, that these *Knights* could be summon'd to do or advise about, and therefore I may very well suppose with greater probability than the Doctor's Friends can assert the contrary, that the *Parliament* having pass'd the Statute above-mention'd on the eighth, was dissolved on the ninth or tenth of *July* following, for (to give the Doctor one of his own Reasons in his * own Words) *the Knights of Shires being then* * Page 151.
great Husbands of their Time and Expences, were not very forward, to undertake this Service; so when the Business of Parliament was over, they always desir'd to be dismiss'd, to save their own as well as their Country's Charges. And that they sometimes went home, when the Earls and Barons continued still sitting as a separate Council, and were also sometimes empower'd by the *Commons* to act for them, appears from those *Records* we have left concerning the Parliament at *Lin-* Rot. Claus.
coln, which was summon'd to meet on the Octaves of *St. Hilary*, in 25 Ed. I. m.
the Twenty eighth Year of this King, where after the *Lords* and 16.
Commons had given the King a *Fifteenth* of their Moveables, in Ibid. m. 17.
Dorj.
consideration of his then granting them that the Bounds of *Forests* should be settled according to the late Perambulations, the *Commons* upon their Petition were dismiss'd; and, as appears by the * Writs for their Expences, the Parliament was dissolved on the * Rot. Parl.
29th day of *January*, and yet nevertheless the Earls and Barons 6 Ed. III.
continued still sitting till the end of the next Month at least, during which time they drew up that remarkable Letter to the Pope, wherein they so stoutly asserted the King's *Supreme Dominion* over the Kingdom of *Scotland*, in Testimony whereof they put their Seals to it for themselves and the *whole Community* of the Kingdom, that is, for the *Commons* as well as themselves, as appears by the Date of it, being the 12th day of *February*, 1301. So likewise in the Sixth of *Edward the Third*, a Parliament was assembled on the 16th of *March*, and upon Saturday following, the King gave leave to the *Knights* of the *Shires*, the *Citizens* and *Burgesses*, to go home; but order'd that the Prelates, Earls, Barons, and those of his Council should tarry longer for the dispatch of some particular Affairs in which He desir'd their Advice.

But I confess that there remains one seeming Difficulty behind, which is, how the King came to be perswaded by the *Earls* and *Barons* to summon two or three other *Knights* to treat with them about some particular matters, when the *Parliament* was sitting, and when they might as well have dispatched all Business whatsoever, in which the Advice and Consent of the *Knights* of the *Shires* was necessary, supposing them (as I do) to have been already summon'd, at the beginning of this *Parliament*: I confess this would be a very material Objection, were not the *Parliamentary* Records of this King and his Successor almost all lost, except some few Fragments

ments that have been collected and preserved by Mr. Ryley in his *Placita Parliamentaria*; but the Gentlemen that shall make this Objection would do well to consider, that if the less Tenants *in Capite* were summon'd to this Parliament instead of the *Knights of Shires*, the Difficulty will remain as great, if not greater, than it was before; for if they had then *represented* all their inferior *Military* Tenants, and that they had already given *Taxes* for them, and had also made the *Statute of Westminster the Third*, what Parliamentary Business could there be for those *Knights of Shires* to do, when the Doctor will not allow them to have then any hand in either of those Great Affairs, of giving *Money*, or in making *Laws*: But as for the Doctor's Guess, *that it is most probable (tho' it is not here absolutely said so) that the King was moved by the Earls, Barons, and Great Men of the Kingdom, to call these Knights to this Parliament*; I think I may with much more colour of Reason affirm, that it was very improbable, they should move for any such thing; for if they had desir'd it, because the less Tenants *in Capite* were averse to their Proceedings, and out-voted them at this time, when they sat together in one House, would not the calling up of two or three *Commoners* more out of each County (who were not Tenants *in Capite*) have made the Party of the less Tenants *in Capite* rather stronger than it was before? But if to this it be reply'd, that these *Knights of Shires*, being inferior *Military* Tenants, might hold their Lands of the *Earls and Barons*, and consequently would be more compliant to them, than to the less Tenants *in Capite*: In return to this, I think I may say, *it is gratis Dictum*, and these Inferior Tenants, who were then chosen *Knights of Shires*, might as well have held their Estates of the Bishops, Abbots and Priors, whom the Doctor doth not make to have been Parties in any such Request to the King; or they might also hold of divers of those less Tenants *in Capite* themselves, upon whom they had more dependance than upon the *Temporal Lords*; so that take it which way one will, I can see no Advantage gain'd either to the King or the Barons, by introducing this supposed new Order of Men into *Parliament*, so long as the Tenants *in Capite* are supposed by the Doctor to have sat there (if they were there at all) to the very end of this Parliament.

Therefore to conclude, if you will accept of my Guess, (which may be as good as the Doctor's, concerning a matter now left so much in the Dark) I shall give it you, without putting so great a stress upon the Words of this Writ, which is the only thing we have to guide us. Now it appears in the very beginning of it, that the King had been particularly *requested by the Earls, Barons, and Great Men, concerning certain matters, which He did not think fit presently to grant, without first having Conference and Treaty not only with the Lords themselves, but with Others of the Counties of the Kingdom*, and therefore the King thought fit to have the Advice of two or three of the most *Discreet Knights* of the *Shires* about these matters, which whatever they were, could not be either about granting *Money*, or giving their Consent to any *Statute* that was then to be made; for both those things were dispatched before ever they came up: And therefore it seems most probable, that the
matter

matter about which the King was so much importun'd by the *Lords* was concerning some future Alteration, or Imposition upon the *Commons*, which the *Knights of Shires* that were then in the Parliament might either oppose downright, or else might modestly excuse themselves, as that they had not as yet receiv'd sufficient Instructions from the *Communities* of their Counties that chose them; upon which the King might think fit to summon two or three Others of the 'most Discreet and Able Knights, to appear at *Westminster* at the 'day appointed, with full Power for themselves and the *whole Community* of the County aforesaid, to advise and consent to such 'things, which the *Earls, Barons, and Great Men* aforesaid, should 'then think fit to agree upon; which however could not be done without being first sufficiently instructed and empower'd thereunto by the said Community of the Counties that sent them; but that these *Knights* were not summon'd to appear in Parliament is highly probable, in that they are not order'd to appear on a day certain, which is fixed in all Parliamentary Summons, and is not to be alter'd without a new Writ of *Prorogation*; whereas in this now before us, the appearance of these *Knights of Shires* is left at their Discretion so soon as they could be *elected*, provided it was within three Weeks after *Midsummer*; and in the mean while, the *Earls and Barons* having some other Business to dispatch with the King, might very well stay in Town, until these *Knights of Shires* should come up to them, which however I am perswaded, for the reasons already given, was not till the *Parliament* was dissolved. I shall now leave it to the Judgment of the Impartial Reader, whether this be not a more satisfactory Account of the reason and occasion of the summoning these *Knights of Shires* by this extraordinary Writ of the Eighteenth of this King, than from thence to conclude, that they were then *first summon'd* to appear in *Parliament*, by a Summons in which there is not one Word said of any such thing, and at a day when all Parliamentary Business was over.

I have now finish'd one main part of my intended Design, in fairly setting down Doctor Brady's chief Arguments in his Answer to Mr. Petyt's *Rights of the Commons*, and his Animadversions upon Mr. Atwood's *Jani Anglorum facies nova*, whereby the Doctor endeavours to make good against them, that the *Commons* as now represented were not summon'd to any *Parliament*, till the Forty ninth of *Henry the Third*, nor from that time till the Eighteenth of *Edward the First*, did the *Knights of Shires* appear there any more, as hath been above related. But since the publishing those Treatises, the Doctor having, I suppose, received greater Light, or having further Designs, thought fit to write another concerning *Cities and Boroughs*, shewing 'their Original, and whence, and from 'whom (as he supposes) they receiv'd their *Liberties, Privileges, and 'Immunities*; what they were, and what made and constituted a *Free 'Burgh and Free Burgesse*, with other things; which because they are not within my intended Design, I purposely omit; however, I will give the Reader (since the Book is not yet very common to be had) a brief Account of the Substance and purport of it: The first fifteen or sixteen Pages are taken up in shewing what a *Borough* is, and

Page 16.

in what a mean State and Condition many of the *Antient Boroughs* of *England* were at the time when *Domesday-Book* was made, and from thence shew that the King or some other *Great Lords* had most of the Mansion-Houses in those Boroughs, by payment of certain Rents or other Duties, and that many of them were part of the Demesne of the King or other *Great Lords*, either Ecclesiastical or Temporal; and at the end of those Instances from *Domesday*, he draws this following Inference.

By these Instances, which are all, he says, (tho' erroneously) that can be found in both the *Domesday-Books*, that do give any Light to the understanding what *Burghs* and *Burgeses* were in the *Saxon* Times, and in the Reign of *Edward the Confessor*, as likewise afterwards in that of *William the Conqueror*, we find the *Burgeses* or *Tradesmen* in great Towns had in those times their Patrons, under whose Protection they traded, and paid an acknowledgment therefore; or else were in a more servile Condition, as being in *Dominio Regis, vel Aliorum*, altogether under the Power of the King, or Other Lords; and it seems to me, that then they traded not, as being in any Merchant-Gild, Society or Community, but meerly under the Liberty and Protection given them by their Lords and Patrons, who probably might have Power from the King to licence such a number in this or that Port or Trading-Town.

Page 3.

On this Paragraph I cannot but remark, that tho' the servile Condition the Doctor speaks of, might extend to some of the meaner or small *Boroughs* he there hath picked out, yet that all the *Antient Cities* and *Boroughs* of *England* were in this abject and servile State, I do not believe; nor doth it agree with the Description he hath given us of a *Burgh* in the two first Pages of this Treatise from those modern Authors that have undertaken to write of them, since from the several Etymologies of this Word, it appears, that they were so called from being places of *Safety* and *Protection*; and the Doctor affirms, ' That whether a *Burgh* was taken for a Place of Strength, ' or a Place of Trade, as it was guarded with the *Liberties* and *Priviledges* granted by Princes, then (and perhaps now) altogether ' necessary to the Advantage of Buying, Selling, and Trading, by ' which *Tradesmen* quietly, and without disturbance enjoy the Benefit of it, *Burghs* might truly be called Places of Safety, Protection and Priviledge.

I will not deny, what the Doctor hath here advanced, that a *Borough* was much safer and freer, from the Protection and Priviledges granted by Princes, yet that they were before those Grants Places of Safety, and likewise of Trade and Business, is as certain, since Men did of their own accord erect *Cities* and *Towns*, and enclose them with Walls or Trenches, for their own Security; and consequently, where there was a Concourse of People, of course it produced buying and selling all things necessary for human Life, such as Clothes, Victuals, Utensils, &c. either for ready Money, or by way of Exchange. Upon which the King or other Chief Lord of such Places, exacted a *Toll* when *Standing-Markets* came to be settled in such Places; so that the Grants of Princes or Lords might indeed encourage, but not create such *Burghs* or Places of Trade and Protection; and when afterwards such *Boroughs* were made *Free-Boroughs*

Boroughs by the King's Charter, they are at the same time suppos'd to have been *Boroughs* before they were made *Free-Boroughs* : And this appears by those Instances the Doctor hath given us a few Pages further, when he undertakes to shew, why such Places are called *Free-Boroughs*, and why the Tradesmen in them were called *Free Burgeses* from the Charters themselves : Thus in the Charter to *Dunwich*, made a *Free-Borough* in the First of King *John*, *sciatis Nos concessisse & præsentī Carta confirmasse Burgensibus nostris Dunewici quod Burgum de Dunewic sit Liberum-Burgum nostrum*. So likewise in a Charter in the second Year of the same King, to *Helleston* in *Cornwal*, the Words are the same, *ut sit Burgus Noster de Helleston, Liber Burgus*, &c. and after the same manner King *John* granted to the *Burgeses* of the Town of *Yarmouth* in *Norfolk*, *quod Burgeses Nostri de Gernemua habeant Burgum de Gernemua ad feodi firmam, in perpetuum* ; which Liberty (says the Doctor) granted to the *Burghs* and *Burgeses*, was a Freedom to buy and sell freely without disturbance ; a Liberty from paying Toll, Pontage, Passage, Money, Lestage, Stallage, &c. in the Mercats and Fairs in these *Burghs*, and in coming to, and going from them ; and for these things the *Burghs* were called *Free-Burghs*, and the *Burgeses*, *Free-Burgeses* ; and for nothing else, as is most evident from the Charters themselves.

From whence we may observe, (let the Doctor disguise it as much as he pleases) that every one of these Towns are here called *Boroughs*, before ever King *John* made them *Free-Boroughs* by his Charter ; and consequently as such, must have had some *Liberties* or *Priviledges*, as to buying and selling, and other matters above ordinary Towns and Villages ; or else there would have been no difference between the One and the Other ; but what those were shall be further enquired into by and by.

I shall now turn back two or three Pages, and shew you what the Doctor says concerning the City of *London*, in the time of *William the Norman*, his Words are these : And any Man would think the Charter of the Conqueror obtained by *William Bishop of London*, looked this way, (that is, they were before in *Dominio Regis*, in the Power of the King or other Lords, without being in any Merchant-Gild, Society, &c.) and that this was a meer *Protection*, rather than a *Charter*, appears by the Instrument it self. I shall omit the *English-Saxon* Original, which the Doctor hath there given us, and only set down the *English* Translation.

William the King Greets William the Bishop, and Godfrey the Port-Reve, and all the Burgeses, (or rather Inhabitants) of the Burgh within London, French and English, Friendly. And I declare to you, that I will that you be all Law-worthy as ye were in King Edward's days, and I will that each Child be his Father's Heir, after his Father's days. And I will not that any Man command any Wrong to be done to you. God you hold, or keep.

I shall pass by the Doctor's Paraphrase and Explanation of the words of this Charter, as upon *Law-worthy*, and *each Child being his Father's Heir*, but shall give you the Inferences that he draws from

Ibid. p. 17.

thence in these words. From hence we may make a very probable Conjecture at the true meaning of this Protection or Charter; it is not to be doubted, but that the *Burgesſes* of *London* had obtained of the *Saxon* Kings ſeveral Liberties and Immunities, amongſt which this was one, to be ſo far *Free*, as not to be *in Dominio*, or ſo obnoxious to any Lord, but that by reaſon of their State and Condition, they might be *Law-worthy*, that is, have the free Benefit of the Law, and had likewise further obtained, (if it was not then a Conſequent of their Perſonal State and Condition) that their Children ſhould be Heirs of their Lands and Goods, and in both theſe to be free from the Injuries, and unreaſonable Demands, and Power of any ſevere Lord; ſo that all the Application made by their Biſhop *William*, and not unlikely by *Godfrey* the *Port-Reve*, to the Conqueror for them, was, that their State and Condition might be the ſame it was in King *Edward's* days, that *their Children might be their Heirs*, and that they might in both be protected from the Injury and Violence of imperious Lords, all which by the prevalence of their Biſhop were granted; conſidering therefore by the foregoing Inſtances it is clear, that many or moſt *Burgesſes* or other *Burghs*, were *in Dominio* either of the King, or ſome other Lords or Patrons, in the time of King *Edward*, and that the *Londoners* might fear the Conqueror would break in upon their Priviledges, and reduce them to the ſame Condition; this Explication ſeems to diſcover the genuine Meaning, and very Import of this *Protection*, or, as 'tis commonly call'd, *Charter*.

I here ſo far agree with the Doctör, that this Grant of King *William's* is not ſo properly to be call'd a *Charter*, as a *Confirmation* of the *Liberties* and *Priviledges* granted by the *Engliſh-Saxon* Kings; yet that it was more than a meer *Protection*, to be free from the *Injuries*, and *unreaſonable Demands*, and *Power of any ſevere Lord*, I am very confident; ſince there was no ſuch Lord that could pretend any Power over them, but the King, and He had already barr'd Himſelf from it by his *Coronation-Oath*, (the ſame that was taken by the *Engliſh-Saxon* Kings) from exerciſing any Right of *Conqueſt* over this Nation; but that neither the City of *London*, nor divers other *Antient Boroughs*, were from the beginning part of the King's *Demefnes* taken in that Senſe as Tenants in *Antient Demefnes* commonly are, for thoſe that might be taxed at the King's Pleaſure, and held their Lands by certain ſervile Tenures, I think may be very eaſily proved, ſince *London*, *Canterbury*, *Wincheſter*, *Oxford*, with other Cities and *Antient Boroughs*, ſent *Burgesſes* to *Parliament* by *Preſcription*, and could not legally be taxed without their *own Conſents*; I ſay legally, becauſe I do not deny, but that King *Henry the Third*, and *Edward the Firſt*, did demand *Tenths* or *Fifteenths*, or ſuch like Taxes, without their Conſents in *Parliament*; but that this was an Encroachment of the *Prerogative*, appears by its being taken away by the Statute of the 34th of *Edward the Firſt*, *de Tallagio non concedendo*. And if *London* had been a Town of the King's antient *Demefn*, how comes it to paſs, that it is wholly omitted in *Domeſday-Book*, wherein all the Towns, Boroughs, and Mannors, that were the King's *Demefnes* in *Edward the Confefſor's* time, are ſuppoſed to be Reſiſter'd? But I ſhall now proceed to what the Doctör ſays in the next Paragraph.

* How

* How long in most *Burghs*, very many *Burgeſſes* remain'd in this ^{14 16} ſervile State, or others in a middle or *Neutral* State between *Servitude* and *Freedom*, I cannot ſay certainly, but do ſuppoſe, until our antient *Norman* Kings granted by their *Charters*, that there ſhould be Merchant or Trading *Gilds*, *Communities* and *Societies* in *Burghs*, and gave them Free Liberty of Trade, without paying *Toll* or *Custom* any where, other than their *Fee-Farm* Rent in lieu of them, where that was reſerved; or to raiſe and multiply ſuch Payments by encouragment of Trade, which by the Grants of ſuch Liberties did mightily encrease, where the King's Bayliſſs collected them.

As to what the Doctor here undertakes to prove from *Domeſday-Book*, concerning the *Servile* and *Neutral* State between *Servitude* and *Freedom* of theſe *Burgeſſes*, till the Kings of the *Norman* Race emancipated them by their *Charters*, and gave them Free Liberty or Trade, without paying *Toll* or *Custom* in the manner he here ſets down; I do not perceive his Proofs will amount to what he aſſerts, *that they were in a Servile State*, becauſe they paid *Toll* or *Custom* to the King before ſuch Grants, as the Doctor mentions were made to them; and for this I ſhall only tranſlate what he himſelf hath ſet down in the firſt Page of his *Appendix*, concerning the *Borough* of *Great-Yarmouth*, which is tranſcribed from a Manuſcript Collection in the *Cottonian* Library, to this effect, which I ſhall here tranſlate.

' *Memorandum*, that the Town of *Jernemu* (i. e. *Yarmouth*) be- ^{Append. p. 1.}
' ing for a great while before the *Conqueſt* built by the Progenitors
' of the Kings of *England* upon the Port or Haven of *Great-Jerne-*
' *mu*, and by reaſon of the Profit ariſing from the ſaid Haven,
' and for the bettering of the ſaid Town it was made the King's
' *Borough*. What follows concerning it is in little *Domeſday-Book*,
from which I ſhall here tranſlate ſome Paſſages.

' King *Edward* held *Jernemu*, where were always ſeventy *Bur-*
' *geſſes*, then it was worth together with the *Soke* of three Hun-
' dreds, 18 *l.* by * *Taile*, and the Earl's part was 9 *l.* by *Taile*, now ^{* In the Latin}
' the King's two Parts are 17 *l.* 16 *s.* and 4 *d.* White or Silver Mo- ^{ad numerum.}
' ney, and the Earl's part 10 *l.* of White Money. As for the Du-
ties paid to the Sheriff, I have omitted them, becauſe it was given by
Good Will, and not of Right.

In the † next Page follows another Note, concerning this Town ^{* Ap. p. 2.}
in the ſame Book in that Library, being to this effect. ' And you
' are to know, that the Progenitors of our Lord the King held
' the ſame *Borough* in their own hands, receiving all the Profits
' proceeding from the ſaid Port, to the time of King *John*, who
' granted the ſaid Town to the *Burgeſſes* of the ſame, in *Fee-Farm*,
' rendering to Him and his Heirs Fifty five Pounds *per Annum*, for
' the Payment of which, they have nothing unleſs it be the *Custom*
' and other Profits ariſing from the ſaid Port; neither do they take
' any Customs of things bought or ſold in the Market upon Land
' at any time. Then follows another *Memorandum* out of the
ſame Book, concerning certain Differences between the Men of
Yarmouth, and *Roger Fitz-Osbert*, Keeper of the Mannor of *Luthing-*
land, concerning the *Customs* which the ſaid *Roger* took in the ſaid
Port

Port against the Liberty of the Men of *Jernemu*, and at last was settled by an *Inquisition*, which I need not here set down: But, was also confirm'd by the Charters of King *Henry the Third*, and King *Edward the First*, that notwithstanding the Claims of certain Persons there mention'd, who appear'd for the Inhabitants of *Little-Yarmouth* and *Gorleston* in *Luthingland*, it is there declared on the behalf of the *Burgeses* of *Great-Yarmouth* and their Successors, that all Goods and Merchandise whatsoever, whether Fish, or any other things which should happen to be brought into the Port of the said Town of *Great-Yarmouth* in Ships or Barks, should be unloaded within the Port aforesaid, and no otherwise, that so they may be sold at the same Town of *Great-Yarmouth*, &c. Then follows a Charter of *Edward the Third*, concerning the Liberties of *Great-Yarmouth*, which not being to my present Purpose, I omit, and shall proceed to the Doctor's next * Record, which is found among those of the *Exchequer* of *Trinity Term*, in the 34th Year of *Edward the First*, and which contains a certain Process before the Lord Treasurer and Chancellor of *England*, the Chief Justice, and Justices of the *Common-Pleas*, and the Barons of the *Exchequer*, and some Others of the King's Council, upon a full Hearing between the *Burgeses* of the Town of *Great-Yarmouth*, and certain Persons who appear'd on the behalf of the Towns of *Gorleston* and *South-Jernemuth* in *Luthingland*, concerning the Priviledge of bringing in and unlading Goods and Merchandises in the Port of *Great-Yarmouth*, and not at any of the Places above-mention'd: The issue of which was, that the *Burgeses* of *Great-Yarmouth* obtain'd a Sentence of the King's Council against those Persons there mention'd, who appear'd for the said Towns; the reason of which was, because the Town of *Great-Yarmouth* is the King's Free Borough, and held of him in *Fee-Farm* at Fifty five Pounds per Annum; and also because the said Towns of *Little-Yarmouth* and *Gorleston*, not being *Boroughs*, could shew no such Liberties from the King, and therefore were strictly commanded not to bring in any Ships to be unladed at the said Towns, but only at the Port of *Great-Yarmouth*, &c.

* *Ibid.* p. 5.

Append. p. 7. From which Process and Judgment Dr. *Brady* draws this Conclusion, That by this Plea and Controversy in the *Exchequer*, between the Burgh of *Great-Yarmouth*, and the Men of *Little-Yarmouth* and *Gorleston* in *Luthingland*, it appears, that *Prescription*, seeing they were no *Burghs*, prevail'd not to assert and make good a Liberty of unlading Goods, and exposing them to sale in those Towns, tho' it had been always done in foregoing Times. By the same it is also evident, that Liberties belonging to *Free-Burghs* were only to be had and obtain'd by the King's Charter, and that where they were used without it, they were esteemed and judged Usurpations, especially if practised, and continued to the Prejudice and Damage of a *Free-Burgh*.

I have been the more particular in setting down these Proceedings concerning *Great-Yarmouth*, as being an Antient Borough by *Prescription* divers Ages before King *John* made it a *Free-Borough*, and granted it to the *Burgeses* in *Fee-Farm* at the Rent of Five and fifty Pounds per Annum, as hath been already said; and the
more

more plainly to shew the difference between an *Ordinary Borough*, and a *Free-Borough* made so by the King's Charter, I shall here transcribe from the *Doctor's Appendix*, so much of King *John's* Charter to this *Borough*, as shall serve for my present purpose, referring the Reader to the Treatise it self, or else, if he be more curious, to the Record in the *Tower*, to the rest that follows.

‘ *Johannes Dei Gratia, &c. Sciatis Nos concessisse & presenti Carta nostra confirmasse Burgenfibus nostris de Gernemua quod habeant Bur-* Cart. 9 Johan. n. 20.
‘ *gum de Gernemua ad Feodi firmam in perpetuum, & quod Burgus* Cart. Bur-
‘ *ille sit liber Burgus in perpetuum, & habeant Socam & Sacam, Tol,* genfium de
‘ *& Theam & Infangenethef & Utfangenethef, & quod ipsi Burgenfes* Gernemuth,
‘ *per totam Terram nostram, & per omnes Portus Maris sint quieti de* n. 2.
‘ *Theoloneo, Lestagio, Passagio, Paagio, Pontagio, Stallagio, &* Printed in Dr.
‘ *de Leve, & de Denegeld, & omni alia Consuetudine, salva Libertate* B's Append.
‘ *Civitatis London, & quod nullam Sectam Comitatum, vel Hundre-* p. 2.
‘ *dorum faciant de Tenuris infra Burgum de Gernemua. Concessimus*
‘ *etiam eisdem Burgenfibus, & hac Carta Nostra confirmavimus, quod*
‘ *nullus eorum placitet extra Burgum de Gernemua de nullo placito præ-*
‘ *ter placita de tenuris exterioribus, &c.*

From which Charter we may observe, that *Yarmouth* was not then made a *Borough*, but only a *Free-Borough*; for as a *Borough* it had before the Liberty of buying Goods imported within it self, only the King before this Grant received the *Custom* of Goods brought into this *Port* in his own Hands, and had also the *Socha* and *Sacha* or liberty of holding Courts within that Precinct; all which, with the *Toll* of the Market, and Tryal of *Thieves*, in and without the Liberty, together with a Discharge from the other Payments and Duties there mention'd, were granted by this; but these Clauses in this Charter are very remarkable, *First*, that None of them shou'd do any Suit or Service to the *County-Court*. *Secondly*, that they should not be bound to plead without the *Borough* of *Yarmouth* to any Plea, except such as concern'd *Foreign Tenures*; by which Priviledges of being excused from appearing at the *County-Court*, and of holding all Pleas within themselves, as also of not being bound to answer at Law in any Suit out of the *Borough*, unless it were for Lands lying out of it, they came to be wholly cut off and divided from the *Community* or Body of the County; and what the consequence of that was, we shall shew more hereafter: So that I cannot see that these *Burgesses* of *Yarmouth*, or any other Town holding their Lands or Houses within the same by *Burgage-Tenure* at a certain Rent, were any way in a more servile State, either as to their Persons or Estates, than were other *Socage-Tenants* that held of the King or any other Lord either Ecclesiastical or Temporal: And as for their paying *Toll* in the Market, for what was bought and sold in it, there is nothing servile in that, since it is a Duty payable in all Markets of *England*, either to the King or Chief Lords in such ordinary Market-Towns and *Boroughs*, which, not being incorporated, have not the *Toll* or Duty of the Markets granted them by Charter; and as for the Customs upon Commodities, the reason of it is plain, that before King *John's* Charter, the King kept the Customs of the Port of *Yarmouth* in his own Hands, for the Defence of the Sea; and if they afterwards paid a Rent for

for it, it did not at all alter the Condition of the Service, but only as before the *Charter* the King receiv'd it by his Officers, so after it He had a Rent in dry Money instead of it: The like I may say of other Boroughs of the same kind.

Neither is the Doctor's Observation true concerning other *Antient Boroughs*, that they were all in a State *between Servitude and Freedom*, either to the King or some other Lord: And for this I need go no further than the next Town, the Doctor hath instanc'd in from *Domesday-Book*, after *Yarmouth*; the Title is *Terra Regis in Tetford, &c.* where after an Estimate made of the Lands and Mills therein belonging to the King, and Earl, or Sheriff, it thus follows in the Doctor's Translation, which I shall give you, correcting some Words; *In the Burgh there were 944 Burgesſes in the time of King Edward, and the King had all the Cuſtom they paid, or had of them all ſorts of Cuſtom: Of theſe Men there were 36, who were ſo much King Edward's Demefne Tenants, or Vaſſals, that they could not be the Vaſſals or Tenants of any Other, without the King's Licence; but all Others could be the Tenants or Vaſſals of any Man, but ſo as their Cuſtom always remain'd to the King, except only the Hereot. Now there are 720 Burgeſſes, and 224 Houſes or Dwellingſ void; of theſe Burgeſſes, 21 have ſix Plough-Lands, and 60 Acres, which they held of the King, &c. from which we may obſerve, that tho' all theſe Burgeſſes held of the King, yet there were only 36 under his immediate Dominion, who could not change their Lord without the King's Licence, which all the reſt might freely do; and of theſe Burgeſſes, 21 of them had ſix Plough-Lands and 60 Acres, which they held of the King by a certain Cuſtom or Rent.*

* *Ibid.*

And that this Tenure was not ſervile in the time of *William the Firſt*, appears by what the * Doctor hath tranſcribed out of *Domesday-Book*, under the Title of *Norwich*, which is thus *Engliſhed*: *There are 36 French Burgeſſes in Norwich, in the New Burgh, and ſix Engliſh, and every one paid an Annual Cuſtom of five Pence, beſides their Mulcts or Forfeitures; the King had two parts of the whole, and the Earl the third part: Now, there are 41 French Burgeſſes, Vaſſals to the King and Earl, and Roger Bigot hath 50; beſides theſe there are 33 more who hold of other Lords, needleſs here to be recited, only what follows deſerves our notice; That all the Lands of the Burgeſſes (i. e. in the New-Burgh) was the Demefne of Earl * Ralph, who granted it to the King, in common with himſelf, to † make a Burgh to be (that is the Profits of it) between him and the King; and all thoſe Lands, which are as well the Knights as Burgeſſes, pay their Rent to the King. From whence we may obſerve, that there were certain Military Tenants, who held of the King, as well as the Burgeſſes, and that by the ſame Rents and Services; which ſhews that this Tenure was not baſe nor ſervile: But the Doctor to conceal this, hath here tranſlated the *Latin*, viz. *Terræ iſtæ tam Militum, quàm Burgenſium reddunt Regi, ſuam Conſuetudinem*, in theſe Words, and all thoſe Lands which were the Knights or Burgeſſes paid their Rent to the King; which I ſuppoſe he did, to make the Reader think, that the Knights and Burgeſſes of this City were the ſame Perſons; but that is an Impoſition upon him.*

* i. e. Ralph Guader, who had been attainted for Treason.
† This was the Precinct about the Caſtle.

I need not go thro' all the *Cities* and *Boroughs* he hath there mention'd from *Domesday-Book*, since he hath scarce set down any, but what held of the King by certain *Rents* and *Customs*, and none of them by any *servile Tenures*, as I can observe; omitting almost all other *Boroughs* (tho' likewise enter'd in the same Book) that held of the Bishops, Abbots, or Temporal Barons, which I suppose the Doctor did to conceal from his Reader, that most of the *Antient Cities* and *Boroughs* of *England*, were none of the King's Demesnes, neither held of Him *in Capite*, as the Doctor asserts in his Answer to Mr. * *Petyt*, concerning the Petition of the Bur- * Page 38
gesses of *St. Albans*.

But now from what has been already shewn, or that can be gather'd from those Instances in *Domesday-Book*, which the Doctor hath cited in this Treatise, I shall leave it to the Reader to consider, whether this general Conclusion is to be drawn from it, that in the Reign of King Edward the Confessor, as likewise afterwards in that of William the Conqueror, the Burgeses of great Towns had, I say, in those times their Patrons, under whose Protection they traded, and paid an acknowledgment therefore; or else were in a more servile Condition, as being altogether under the Power of the King, or other Lords: Whereas there is not a word there (as I can find) concerning these Burgeses, their manner of trading, or paying any acknowledgment for it, to those to whom they own'd their Protection; nor was their being under the King's Demesne any such servile thing as the Doctor would have it; since it was no more than a bare Tenure in *Soccage* under a certain Rent, which not only such Burgeses, but Knights or Military Tenants, either of the King, or Earl, did not then think it a disparagement for them to hold by, as appears from the instance of those Knights in *Norwich*, that held Lands within the Borough, paying the Customs to the King: And that Men of Quality did then hold Land within *Cities* and *Boroughs*, which belong'd to the King, doth likewise appear from what the Doctor hath also shewn us from *Domesday-Book*, concerning the City of *Canterbury*, which I shall give you according to his Translation:

In the City of Canterbury, King Edward had fifty one Burgeses, paying Rent, and 212 other under his Priviledge and Jurisdiction, &c. now the Burgeses paying Rent are 19, the Others which were 32 are dead, and yet there are 212 under the King's Priviledge and Jurisdiction. The Burgeses had forty five Houses without the City, of which they themselves had the Rent and Custom; but the King had the Jurisdiction and Soke; the Burgeses also held of the King thirty three Acres of Meadow, which were toward the maintenance of their Guild. These Houses, and this Land Ranulph de Columbels now holds, and he has also besides these eighty Acres more, which the Burgeses held freely of the King: For all these the same Ranulph vouched the Bishop of Baieux for his Protector. Nothing more here concerning the Burgeses.

From which it plainly appears, that in the City of *Canterbury* there were in the time of King Edward two sorts of Burgeses, the one of which paid Rent and Custom to the King, and there were others over whom He had only the Duties upon their *Sache* and *Soche*, that is, their Power or Liberty of trying Causes within the Precinct. There were also Other Burgeses who had Houses without the City,

of which they themselves, *i. e.* the *Burgesſes* had their *Rent* and *Custom*, but the King only the *Sacam* and *Socam* : And that the Doctor's Conclusion that follows in the ſame Paragraph is falſe, to wit, *that theſe Burgeſſes traded not, as being in any Merchant-Guild, Society and Community, but meerly under the Liberty and Protection given them by their Lords and Patrons*, appears by this very Paſſage before us, where it is ſaid, that the *Burgesſes* of *Canterbury* held thoſe 33 Acres for their *Guild* : Now what that can ſignifie, beſide their Trading Society or Corporation, I deſire the Doctor's Friends would inform us if they can. And further, this very Paſſage will likewiſe ſhew us, that not only ſuch Ordinary Men as *Citizens* and *Burgesſes*, held Land within the City or Borough by the like Rent and Duties, but alſo that Men of Quality thought it no diſparagement to hold Lands by the ſame Tenure as the *Burgesſes* held them, you may ſee by this *Ranulph de Columbell* a *Norman's* holding the ſame Land at the time when this Survey was made ; and beſides thoſe 33 Acres, he had 20 more, which the *Burgesſes* had held before in *Alodio*, *i. e.* *diſcharg'd of any Service*, to the King, for all theſe Lands. But this Paſſage concerning *Ranulph de Cotumbell*, the Doctor has omitted in his *Engliſh* Tranſlation, I ſuppoſe, leſt his ordinary Readers ſhould know that any but meer Tradeſmen held Lands in *Cities* and *Boroughs* : And then it follows in the ſame place, that this *Ranulph* was under the *Protection* of the Biſhop of *Baiieux*. Now if this had been ſaid of the *Burgesſes*, no doubt, the Doctor would have urged it as a main Argument of their *ſervile* Condition, that they were fain to have the Biſhop's Protection to trade ; but this being ſaid of a *Norman* Gentleman, the Doctor has mollified the Expreſſion, by paraphraſing it thus, *that he held theſe Lands of the Biſhop, and he was his Warrant for the poſſeſſion* : But how well that Expreſſion will bear this Senſe, I will leave to the intelligent Reader to conſider.

* Treaty of
Boroughs,
p. 17.

I ſhall now proceed to what the * Doctor ſays concerning the Original of *Cities* and *Boroughs* in *France*, and he cites *Du Freſne's* Gloſſary, who there ſays, ' That the Kings of *France* erected theſe ' *Communities* to check the Inſolencies of their *Great Vaſſals*, and to ' protect his People from their over-grown Dominion and ex- ' travagant Power, that they reputed ſuch *Cities* and *Towns* their ' own, where there were ſuch *Communities* ; which I ſhall not at all concern my ſelf about, ſince it plainly appears by what follows in this Author, that thoſe Places were *Cities* or Great Corporate Towns ; for but a little farther, the Doctor ſays from him, that the ' chief things which conſtituted a *Community*, were a *Mayor*, *Eſche- ' vins* or *Aldermen*, a *Society*, *Fraternity*, or *Common Council*, out of ' which they were to be choſen, a *Bell-Fry*, and *Bell* to call them to- ' gether to publick Meetings, a *Common Seal* and *Juriſdiction*. All theſe do indeed belong to *Cities* and *Towns* Corporate, but do no ways concern our *Ordinary Boroughs*, which are, and ever were quite different things from *Cities* and *Corporations* ; for every Body knows that all *Cities* are *Boroughs*, but not *vice verſa*, all *Boroughs* are not *Cities*, or *Towns* Corporate ; tho' the Doctor the better to ſerve his preſent turn, doth all he can to make all *Ordinary Boroughs* to have been at firſt incorporated by the *Charters* of former Kings ; but
what

what Authority he hath for this his so singular Opinion shall be consider'd hereafter.

From *France* the * Doctor comes over to *Scotland*, and says, that [†] *ib. p. 18.* about the same time that these *Communities* first began to be frequent in *France*, the *Laws* and *Customs* of the *Burghs* of *Scotland* were published by King *David* the *First*, who began his Reign *A. D.* 1124, and was cotemporary to our *Henry* the *First*, and King *Stephen*; but this makes against the Doctor's Notion, and shews, that the *Boroughs* of *Scotland* were not then newly erected, but were far more antient, because there must have been *Boroughs* long before there could be *Laws* made to regulate them; and *Customs* are only such, as must have continued beyond time of memory.

But I shall further observe, concerning the *Boroughs* of *Scotland*, that they have always sent *Burgeffes* to Parliament, as the Doctor himself acknowledges in his Answer to Mr. † *Petyt*; And as for [†] *Page 100.* the Great Cities or *Communities* of *France*, the *French* Historians and Antiquaries allow, that they have from their first Original sent *Deputies* to the *Antient Assemblies* of Estates; but *England* being (in the Doctor's Opinion) a Conquered Kingdom, is not to be allow'd those Priviledges with *France* and *Scotland*, so that no *Cities* nor *Boroughs* here (if he may be credited) did ever, but once, send *Representatives* to Parliament, before the latter end of *Edward* the *First*.

I shall now proceed to the rest of what the Doctor there asserts, concerning the Original of *Priviledges* to *Boroughs*, of which he says thus: It wants not Probability, (tho' it manifestly appears not) that *William Rufus*, *Henry* the *First*, and King *Stephen*, being all *Usurpers*, granted large Immunities to *Burghs*, to secure them to their Party; and by the time that *Glanvil* wrote, which was in the Reign of *Henry* the *Second*, *Burghs* had such great Priviledges, as that if a Bondman or Servant remained in a *Burgh*, as a *Burgeffs* or Member of it, a Year and a Day, he was by that very residence made *Free*; and so it was in *Scotland*, he was always free and enjoy'd the Liberty of the *Burgh*, if he were able to buy a *Burgage-Tenure*, and his Lord claim'd him not within a Year and a Day: And then he cites the Law made by King *David* about it to the same effect, and which indeed rather makes against the Doctor's Opinion. For it cannot be suppos'd, that the *Scots* borrowed their *Laws* concerning their *Boroughs* immediately from *England*, so soon almost as they were made here; and therefore it is most likely, that this Custom concerning the Enfranchisement of Bondmen, was practis'd in the *Boroughs* of both Kingdoms for a long time before, and did not proceed from the Grant or Charter of those *Usurping* Kings he mentions: And so likewise the Doctor's next Assertion wants probability, to wit, that the Immunities granted to *Boroughs*, proceeded from those *Usurpers* he mentions, since he can shew us no Authority for what he says; but indeed if those Kings of the *Norman* Race granted any such Priviledges at all, it must have been by such *Usurpers* as the Doctor names, since of the eight first Kings after the Conquest, there was but One of them, that had a Title to the Crown by Inheritance, when He first took possession of it. And I confess this is a very notable proof of the Doctor's, to make

out that these Grants were made by *Usurpers*, when the two most ancient Authorities that he hath brought of the Grants of those Kings to any *Boroughs* or *Towns Corporate*, is the Charter of *Henry the Second* to the *Burgesses* of *Wallingford*, whereby He granted them many large Priviledges for the Services they had done Him against King *Stephen* in recovering his *Hereditary Right* : And *Winchester* and *Oxon* had also Charters from the same King ; and *Portsmouth* had another from King *Richard the First*, whereby He granted them a *Fair* and a *Market*, and these two Princes were the only ones of Eight, who could make any colourable Claim to an *Hereditary Right*, at the time of their Coronations.

But the main Error that runs thro' this Author's Treatise, is, in confounding *Boroughs* with *Free-Boroughs*, and both of them with those *Guilds* or *Communities*, that were only erected in *Towns-Corporate*, as if they had been all one and the same ; and for this the

* *Ibid.* p. 19. Doctor cites King *John's* Charter to *Hertlepool*, in the Bishoprick of *Durham*, *Sciatis Nos concessisse & hac presenti Charta Nostra confirmasse hominibus de Hertlepool, quod sint Liberi Burgenses, &c.* which Liberty (says he) granted to the *Burghs* and *Burgesses* (for all Inhabitants of *Burghs* were not such) was a Freedom to buy and sell freely without disturbance, a Liberty from paying Toll, Pontage, Passage-money, Lestage, Stallage, in the Mercates and Fairs in these *Burghs*, and in coming to, and going from them ; and for these things, the *Burghs* were called *Free-Burghs*, and the Inhabitants *Free-Burgesses*, and for nothing else, as is most evident from the Charters themselves : But the Doctor carries that too far, for there was certainly a Liberty of buying and selling in the Mercates of *Ordinary Boroughs*, (paying Toll and other Duties) before ever they were made *Free-Boroughs*, or the Inhabitants called *Free-Burgesses*.

But further to prove that the *Guild*, or Corporation erected by the King's Charter in *Towns-Corporate*, was the same thing with a *Free-Borough*, the † Doctor cites a Law of King *David* above-mention'd, *That All his Burgeslies should be free to buy and sell in his whole Kingdom, as well by Land as by Water, and to make their advantage without disturbance, upon pain of forfeiture to such as disturbed them ;* and in the Statutes of King *William*, Chap. 35. He also decreed, *That the Merchants of the Kingdom should have their Merchant-Guild peaceably, with the Liberty of buying and selling every where, within the Liberties of their Burghs ; so that every one be content with his Liberty, and none should usurp the Liberty of another, &c.* and from thence the Doctor makes a learned Remark, *that by understanding wherein their Liberty consisted, we come to know what Men the Burgesses were, to wit, Buyers and Sellers, Ordinary and Common Tradesmen, (then called Merchants) such as are commonly found in ordinary Inland Burghs and Mercate Towns, such as frequent Fairs and Markets.* But he need not have gone so far as the Laws of King *William* for this great discovery ; for had he discoursed with any travelling *Scotch Pedlar*, he could have inform'd him, that every ordinary Tradesman in *Scotland* is called a Merchant at this day ; and that such Tradesmen in *England* were also called Merchants in former times, I shall not deny, since the Authorities he brings for it are plain

† *Ibid.*

plain enough. But to what purpose doth this Author cite the ancient Laws in *Scotland* concerning their *Boroughs*, as if that could instruct us, what made a *Borough* in *England*? since all the *Scotch* *Boroughs* (as I am credibly informed) are a sort of Towns Corporate, having a Provost, with a Corporation govern'd by Bayliffs, who are like our Aldermen, and have also a *Guild*, or Company of Merchants and Traders, under certain Laws or Rules; but this is nothing to our *Boroughs*, much less to our *Free-Boroughs* in *England*, many of which have neither Mayors, Bayliffs, nor Aldermen, nor yet any set number of *Burgeses* instead of them; neither do they send Members to Parliament, because they are such *Communities* or Corporations, as the Doctor will have it; since there are several Towns Corporate made so by the King's Letters Patents in modern times, which nevertheless do not send any *Burgeses* to Parliament; and tho' some of them may have the liberty of sending *two*, and some *one Burges* to Parliament, yet that is no effect of their being a *Corporation*, but because that Privilege is particularly granted in the *Charter* it self; but there are not any of this kind more antient than the Reign of King *Edward the Fourth*, before which time, there is not to be found any Clause in a Charter granted to an ordinary Market Town, which when it was made a Corporation, gave it a Privilege of sending *One* or *Two Burgeses* to Parliament. But to proceed:

The Doctor's main Spleen being against the City of *London*, which he will not have to be a *Corporation* until the beginning of *Richard the First*, I shall give you his Account of it, and then examine what he says: In the Year 1191, which was the Second of *Richard the First*, *John* Earl of *Moreton*, the Archbishop of *Rouen*, and all the Bishops, Earls, and Barons, with the Citizens of *London*, met in *St. Paul's Church-yard* on the 11th of *October*, and there deposed the Chancellor *William Longchamp*, Bishop of *Ely*, the King being then in the *Holy Land*, and made *Walter* Archbishop of *Rouen*, Chancellor in his stead; and the same day the said Earl and Archbishop, and other the King's Justices, granted to the Citizens of *London*, to have their *Community*. And the same Year the Earl of *Moreton*, and the Archbishop, and almost all the Bishops and Earls and Barons of the Kingdom did swear, firmly and steadfastly to defend and preserve that *Community*, so long as it pleased the King.

This *Community*, which was thus granted to the Citizens, was a *ibid.* select number, for the better management of the Affairs of the City; for no doubt but the Citizens met promiscuously in *St. Paul's Church-yard*, and to avoid Confusion for the future, it was desired by themselves, and thought requisite by the Earl of *Moreton*, the Chancellor, and King's Justices, that they should have such an Establishment, the better to assist them in their *seditions* Practices, and for the greater advantage of the Citizens; otherwise, why should the Citizens desire it, and the Nobility be importun'd to swear the defence of it?

But notwithstanding the Doctor's Confidence, that the City of *London* was no *Corporation* before that time, yet in the next Paragraph he seems to doubt it, as appears by what follows: Whether *ibid.*
this

this Community mention'd by *Hoveden* was the First, that was granted to *London*, or whether they had one before, and was dissolved by *Henry the Second* for their constant Rebellion against his Mother *Maud* the Empress and Himself, and never restored until this time, I know not : They had not a *Mayor* indeed until the First of *Richard the First*, the Year before this, and perhaps might not have a Community until the Second of his Reign. And truly the Doctor hath very good reason to doubt it, for tho' they had not a *Mayor* until the First of *Richard the First*, yet that they were a Community or Corporation long before that time, (however it became now to be forfeited or suspended) appears by their *Antient Charters* and other Records : And tho' the Doctor in his *Appendix* to this Treatise hath given us divers Charters to this City from *Henry the First*, *Henry the Second*, and *Richard the First*, yet there is not any thing in them, that mentions the making them a Community or Corporation ; and in the most antient of them, viz. that of *Henry the First*, *London* is there called a *City*, and its Inhabitants *Citizens*, which Titles they would not have had, if they were not at that time a Corporation with a *Gilda Mercatoria*, which the Doctor supposes to be necessary to all *Cities* and *Towns* of Trade, and in the first of these Charters from King *Henry the First*, is contain'd a Grant to the Citizens of *London*, of the whole County of *Middlesex* to be held in Fee-Farm for 300 l. per Annum, with a Priviledge that the Citizens should name what Sheriff they would from among themselves, and likewise what Justiciary they would, to hold the Pleas of the Crown, and that no other Justiciary shall be over the Men of *London*, nor shall the Citizens plead without the Walls of the City ; and they shall be quit from Schot and Lot and Danegeld, with other Priviledges too long to be here recited ; only it therein plainly appears, that before this Charter they had two Courts, one called the *Hustings*, the other the *Folkesmot* ; and it is also appointed, that the *Hustings* shall sit once in the Week : Now this being the Sheriffs of *London's* Court, and one of the most antient of *England*, as appears by the *Saxon* derivation of it, (which the Doctor hath there given us at the bottom of the Margin) I leave it to the Judgment of the impartial Reader, whether there can be a more evident Proof from any Charter to a *City* or *Borough* of their being a Community or Corporation, than their having Sheriffs of their own, with the Government of a whole County committed to them, and the Power to appoint a Justice of their Own, and to hold Pleas in all sorts of Actions, whether Civil or Criminal : And whoever will take the pains to peruse the rest of the Charters to this City, which the * Doctor hath transcribed into his *Appendix*, will find, that they only contain a Confirmation of their former Liberties and Priviledges, without any mention of their being thereby made a New Corporation or Community. The like I may say for the antient Charters granted to *Winchester*, *Norwich*, *Lincoln*, and other antient Cities, which do suppose, and not make them to have been Communities or Corporations, or Free-Boroughs ; particularly that of † *Richard the First* to *Winchester*, begins with this remarkable passage.

Append. to
the Doctor's
Treatise. n. 25.

* Page 25, &
dein. ad p. 30.

† U. p. 31.

Ricardus Dei Gratia, Rex Angliæ, Dux Normaniæ, &c. Sciatis Nos concessisse Civibus nostris Wintoniæ de Gilda Mercatoria, quod nullus

nullus eorum placitet extra muros Civitatis Wintoniæ de ullo placito præter placita de tenuris exterioribus, exceptis Monetariis & Ministris Nostreis, &c. whereby it appears, that the Community of Winchester had a *Gilda Mercatoria* long before this Charter, and that (without doubt) by the Grant of some of the *English-Saxon* Kings, since there is no Charter to be found more antient than this to that City, from any of the Kings of the *Norman* Race. But what the Doctor says further concerning *London* having a *Community* or *Corporation* in the time of *Edward the First*, and the manner of their then chusing their *Mayor* and *Common Council Men*, is not my business to examine.

I shall now proceed to what he hath further said, to explain what was meant by the *Community* or *Communalty* of a *Borough* or *City*, which he doth in these Words :

* Yet further to make it clear, beyond all exception, what the *Community* or *Communalty* of a *Burgh* or *City* was, I will add a Clause * In the Treat. Ib. p. 24. in a Private Act of Parliament, made for the Establishment of certain Rents and other matters between the *Burgh* of *Plymouth*, and the Prior and Convent of *Plympton*, in the time of King *Edward the Fourth*, in these *English* Words, as 'tis to be found upon the *Parliament-Roll*, 4 Ed. 4. M. 38, 39. and if the sayd Yearly Rent of 29 l. 6 s. 8 d. be behind in part, or in all, not payd to the same Priour of *Plympton*, and *Covent*, and to their Successors in the same Priorie by fifteen days next after Eny of the said Feasts of Payment, that then it be Leful unto the same Priour and *Covent* and their Successours, and to their Officers and Ministers to distreyne in the said *Borough*, and in name of Distresse to take all the Goods and Catalles of the said Maire, and *Communalte* and of all Other Burgeis of the same *Borough*, and of all Other Persons resident, and dwelling in the same *Borough*, and Precinct of the same, and in every parcel thereof. Here we find the *Mayor* and *Communalty* of *Plymouth* a select number, and distinct from all Other Burgeses of that *Burgh*, and all other Persons resident and dwelling within the same. And what the *Mayor* and *Communalty* of this *Burgh* were, other than the *Mayor*, *Aldermen*, and *Common-Council*, or the *Mayor* and *Chief Burgeses*, which were the governing part of the *Town*, let any one, that can, tell me.

At the end of the 38 Membrane, and beginning of the 39.

I shall not here dispute, what is to be understood by the word *Communalty* in a *Borough* incorporated by *Charter*, as this is ; but I am very confident the Doctor is mistaken in making this word so to be understood in those *Boroughs*, which far the greater number of them were never incorporated at all ; for in those, the word *Communalty* can by no means be understood of a select number, and distinct from all the other *Burgeses* of that *Burgh* ; since all the *Burgeses* of it, who have Votes in the Election of Members to *Parliament*, are alike Part of the *Communalty* of the *Borough*, and indeed this is but a needless Criticism of the Doctor's, arising from the too nice wording of this Agreement between the *Town* of *Plymouth* and the Prior of *Plympton* ; for who doth not know, that understands any thing of the difference between a *Town-Corporate*, and a *Borough* by *Prescription*, such as *Oxford*, *Woodstock*, &c. that notwithstanding the choice of the *Mayor* and *Aldermen* is wholly in the *Common-Council*,

Council, yet the Election of *Burgesses* to serve in Parliament is made by all the *Freemen* of those *Towns Corporate* ? and in other places by all the *Burgesses*, who have such Houses within the *Borough*, as are of *Borough-Tenure*, according to the several Customs of those *Borough-Towns*, which I grant are very different, and which I could wish, I might see all reduced to one uniform Order or Method by *Act of Parliament*, for the avoiding of Quarrels at *Elections*, and to save the *House of Commons* a great deal of trouble, besides the Advantage several Factions lay hold of, whenever they have it in their Power to determine, as they please, concerning them ; but this only by the bye. However, since the Doctor hath undertaken to give us some further Light concerning *Parliamentary-Boroughs*, I shall give you his Opinion concerning them, as it follows in the same Page.

Id. 24.

From treating of the Constitution of *Burghs*, and shewing what they, and the *Burgesses* antiently were, and of what Value and Estimation in the Nation, I shall proceed to shew what the *Parliament-Burghs* were, and when, and for what Cause at first they sent *Representatives* to *Parliament*.

Ibid.

In the Reigns of King *John* and *Henry the Third*, we do not find any *Citizens* or *Burgesses* in *Great Councils* or *Parliaments*, unless they were in that of the Forty ninth of *Henry the Third*, at which time, the *Citizens* of *York* and *Lincoln*, and other *Burghs* of *England*, were written unto, to send two *Citizens* and two *Burgesses* according to the Form of the *Writ* directed to the Bishop of *Durham*, and for this he refers us back to his Answer to Mr. *Petyt*, f. 137. A. f. 140. B.

* Ibid.

The main Cause of the *Citizens* and *Burgesses* being first summon'd to *Parliament*.

Id, p. 25.

* The main Cause of their being first summon'd to *Parliament*, was, to give their Consent to *Taxes* propounded to, or impos'd upon them ; before that time, in the Reigns of those two Kings, they were *Talliated* or paid *Tallage* according to the *Imposition* upon them, or *Acceptance* of what they offered by the King's Officers or Justices, as also in the time of *Edward the First*, until after the Thirty fourth Year of his Reign, and this he thinks to be manifestly proved in my *Animadversions* upon a Book called *Jani Anglo-rum Facies nova*, fol. 178, 179, 180, and further appears in *Ryley's Placita Parliamentaria*, in the Thirty third of this King, fol. 259. 264, 265. 275, 276. Altho' several Years before, *Citizens* and *Burgesses* were summon'd to *Parliament*, and there gave their Consent to the raising and paying of *Taxes*. In the Thirty second Year of his Reign, He caused a *Talliage without Common Consent* to be assessed by Commissioners in all his *Cities*, *Burghs* and *Demefnes*, in every County of *England*, either by Heads (*Capitativum*) or in common, and gave particular direction that the *Talliage* of *Norwich* should be assessed at Four hundred Pounds.

I shall not say much to what the Doctor hath here laid down, because the greatest part of it is answered already in what I have before brought to the Doctor's Arguments, to prove, that No *Knights* of *Shires* were summon'd before the time he last mentions ; and as for the reason he gives, why the *Citizens* and *Burgesses* came afterwards to be summon'd in this King's Reign, because they should give their Consent in *Taxes* propounded to, or impos'd upon them, and
that

that before this time they were Talliated according to the Imposition laid upon them, &c. All this, in my Opinion, utterly destroys the Reason he hath given; for if the King could have legally Taxed all the Cities and Boroughs of England at his own Pleasure, not only before they sent Burgesſes to Parliament, but also after they had their Representatives there, they were obliged to grant the King whatever Aid He demanded: I cannot see then what reason there could be, to make them send Members to Parliament at all, ſince they could but have paid what He pleas'd to impoſe, without putting Himſelf to ſo much needleſs Trouble of ſummonin, or them to the Charges of ſending up their Members: But I ſhall ſay more to this Point by and by.

Perhaps thoſe of the Doctor's Opinion, will ſay, in Answer to this, That tho' the King had formerly done ſo, and might have done it again if He pleas'd, yet that He had rather receive thoſe Aids or Taxes from the voluntary Conceſſion of his Subjects, than to exact them of them whether they would or not; but to this it may be reply'd, That it would be a good Answer, had not the Doctor aſſerted this Power of Talliating all the Cities and Boroughs in England, as his antient and undoubted Right and Prerogative, and that even after the Citizens and Burgeſſes were ſummon'd to Parliament, they were ſtill obliged to grant whatſoever Sum the King ſhould think fit to impoſe upon them; for that Grant can never be voluntary, when there is no Liberty left to reſuſe, if they ſhould think fit; beſides, if this had been the King's antient and undoubted Right, the Cities and Boroughs of England had no more reaſon to be diſcontented at it, than the Cities and Towns of France have at this Day, to pay whatſoever Talliage it pleaſes their King to impoſe upon them; and tho' it may be paid with great regret, yet that is all one, ſince *Oderint dum Metuant* is the Maxim of that ſort of Government, which the Doctor ſeems by his *Treatiſe* chiefly to deſign to advance.

But, indeed, what he hath ſaid in Answer to Mr. Atwood's *Jani Anglorum*, &c. doth not make out what he hath here aſſerted. yet it cannot be deny'd, that he is herein ſo far in the right, that the Kings of England before the Statute, *de Tallagio non concedendo*, often Talliated their own private Demefns, that is, ſuch Lands as held immediately of the King upon Payment of certain Rents, or performing certain Duties or Services in kind; and there was ſome reaſon for this, ſince the Tenants of thoſe Lands being diſcharged by their Tenure, from any Suit or Service at the County-Court, had nothing to do in the Election of Knights of Shires, and conſequently could have no Representatives in Parliament to grant Taxes for them; and beſides all this, theſe Tenants not holding by Military Service, but meer Soccage-Tenure, were not obliged to ſerve the King with their Perſons or Eſtates in any Foreign War, either in France, Scotland, or Wales; but only in caſe of an Invaſion by Foreign Enemies, or of ſome Inſurrection or Rebellion within the Realm; and therefore it was but reaſonable, that theſe Tenants in Antient Demefne, enjoying ſuch great Priviledges, ſhould contribute to the Publick Neceſſities of the King and Kingdom as well as the reſt of the Nation; and ſince they could not grant this in Parliament, it was

left to the King as their Supreme Lord, to Tax them according to the same Proportion as the rest of the People were obliged to pay Him, and whenever such a *general Tax* was laid upon them, it was always (or at least for the most part) when the *whole Kingdom* was Taxed by *Authority of Parliament* : And if it were done at any other time, it was look'd upon as a Grievance and Encroachment of the *Prerogative*. But presently after the Statute above-mention'd, *De Tallagio non concedendo*, (when all sorts of *Tallages* or *Taxes* whatsoever, were for the future to be only granted by the King and Parliament) we find that in the next *Parliament* after that wherein this Statute was made, being the 34th Year of this King, not only the *Cities* and *Boroughs*, but the Tenants of the King's *Antient Demesnes*, by certain *Representatives* of their own Choosing, (since they could not all appear in Person themselves) granted the King a *Twentieth Part* of their Goods for the making his Son a Knight, and the Defence of Scotland against *Robert Bruce*, as appears by a * Record in the *Exchequer*, which is also cited by the Doctor in this very *Treatise*. And these Tenants in *Antient Demesne* (as he himself acknowledges) continued to be often mention'd, as Granters of their Shares of all *Taxes* upon Moveable Goods, till after the 8th Year of K. *Edward*, when the Establishment of *Taxes* upon Personal Estates became certain, and the way and manner of levying them was changed, the Tenants in *Antient Demesne* were no longer mention'd in the Commissions to the Taxors and Collectors, as Granters of those *Taxes*; so that there now remain Two Questions in Dispute between the Doctor, and those of the contrary Opinion: The *First* is, Whether King *Edward the First*, or any of his Predecessors, *Talliated* all the *Cities* and *Boroughs* in *England*, as his, or their *Antient Demesnes*? The *Second* is, Whether or no *Cities* or *Boroughs* which were not his *Antient Demesne*, had any Right to send *Citizens* or *Burgesses* to Parliament, but only as they were made *Free-Cities* or *Free-Boroughs* by the King's Charter? As to the *First* of these, the Doctor is certainly mistaken; since the greater Part of the *Antient Cities* and *Boroughs* in *England*, cannot be proved either from *Doomes-Day-Book*, or any other Record to be Part of the King's *Antient Demesne*; nor doth the Doctor either in his Answer to Mr. *Atwood's Jani Anglorum*, or in this Place now before us, prove any more, than that King *Henry the Third*, and *Edward the First*, his Son, *Talliated* such *Cities* and *Towns* as held in *Antient Demesne* only; nor did the King pretend to *Talliate London* any otherwise: But concerning His Right to do this, we shall speak further by and by. In the mean while I desire the Reader would consult the * Doctor's List which he hath given from *Doomes-Day-Book*, and other Records, of the present *Boroughs* that were *Antient Demesne*, and there he will find None of the *Cities*, and not a Third Part of the *Antient Boroughs* of *England*, to have been the *Antient Demesne* of the Crown; and if so, the Doctor's general Proposition is false, which he hath already so positively laid down, *That before the 23d of Edward the First, all the Cities and Boroughs in England were Talliated, or paid Tallage, as the King's Demesnes, according to the Impositions laid upon them, or Acceptance of what they offer'd the King's Officers or Justices;*

I think

* Ib. p. 38.

* Ib. p. 41,
42.

I think this is sufficient at present to be said as to the first point ; and as for the *Second*, concerning the Rights and Priviledges of *Free-Boroughs*, their sending Members to Parliament, shall be consider'd when we come to those Pages in the Doctor's *Treatise*, which particularly speak concerning them.

I shall therefore proceed to examine the * Doctor's next Assertion, * Ibid p. 25. viz. that the first time we find any *Citizens* or *Burgeses* summon'd to Parliament, was in the 23d Year of *Edward the First*, according to the Tenor of the * Writ which there follows; for which I shall refer you to the Transcript here published of it, as also in the Answer to † Mr. Pety's *Rights of the Commons*, which since it is no more than an ordinary Writ of Summons to Parliament in the usual Form, I need recite no more of it, than that it was first held on the Sunday after the Feast of *St. Martin*, and the Sheriff of *Northamptonshire* is "thereby required to cause to be chosen and come to *Westminster* " at the Day appointed, *Two Knights* of the County aforesaid, and " the said *Citizens* and *Burgeses*, to have the same Power separately, " from them, for themselves, and the *Communities* of *Cities* and *Burghs*, " then to do in the Premises what shall be ordain'd by the *Common-Council* of the same. This is dated at *Canterbury* the 3d of *October*.

* Rot. Claus.
Ed. I. M. 4.
Dors. de Parlia-
mento tenendo.
† Page 155.

This Parliament (says the * Doctor) did not meet on the Sunday * Ibid p. 26. after *St. Martin*, but was prorogu'd before their meeting, to the Sunday next before *St. Andrew* the Apostle, which is the 30th of *November*, and all the *Treating*, *Orlaining*, and *Doing* in this Parliament, was only to *Grant*, and *Consent* to raise such *Supplies* as the King demanded, as will afterward appear. But the Doctor is too bold in this last Assertion, for the *Rolls* of this Parliament being lost, he cannot tell what might be treated of, or ordain'd in it, besides the granting the King an *Aid*; and there were many Parliaments call'd in those Times, when no *Statutes* were made; and yet it would be very bold to assert, without first consulting the *Rolls*, that nothing else was treated of or done, besides giving *Money*. But to proceed to the Doctor's next Paragraph.

* The not finding any *Citizens* or *Burgeses* summon'd by former * Ibid. Writs directed to Sheriffs, nor particular Writs directed to the *Mayors*, *Bayliffs*, or *Chief Officers* of *Cities* and *Burghs* before this (except that in the 49th of *Henry the Third*) might be a sufficient Proof, that these were the *First Summons* of *Citizens* or *Burgeses* to Parliament. But to clear this Point beyond all Doubt and Cavil, we must look back to the 18th of this King, and see what the *Stile* of *Parliaments* was, between that time and this.

And then the Doctor proceeds to recite the Writ of the 18th of Ibid. this King, which he found in a *Bundle* of Writs directed to the *Sheriffs* of several, or most, of the Counties of *England*, and they are (says he) thea ntientest extant, or perhaps that ever were (except, as above, he means those of the 49th of *Henry the Third*) by which *Two* or *Three Knights* were directed to be chosen for each County; but no *Citizens* or *Burgeses*. And accordingly *Norfolk*, * Return. Parl. Suffolk, Cambridge and *Huntington Shires*, and *Cumberland*, return'd each 18. Edw. I. of them *Three Knights*, with *Manucaptors* for their Appearance; all other Counties but *Two* each, &c.

As to the First of the Doctor's Arguments to prove that the *Cities* and *Boroughs* sent no *Representatives* to Parliament till this Year, I have in effect answered it already, when the like Reason was made use of to prove that there were no *Commons* summon'd until the 49th of *Henry the Third*. And I must once more ask the Gentlemen of this Opinion, since the *Writs of Summons* (as I have said already) to the *Bishops* and *Temporal Lords*, as well as to the *Commons*, from the Year last mentioned, to the 23d of this King, are all lost, how they can prove that there were any such Persons present, in any of the *Parliaments* that were summon'd from that time to this? If they say, that tho' those *Writs of Summons* are lost, yet it evidently appears from *Records*, *Titles to Statutes*, and the *Histories* of those Times, that the *Bishops* and *Peers* were present in all *Great Councils* and *Parliaments*, during that time, but that the like *Testimonies* cannot be produced on the behalf of the *Commons*. To this I reply, That this is asserted without any good Ground, since, I hope, I have already evinc'd the contrary in the first Part of this Discourse, and that from the same *Testimonies*, that those of the Doctor's Opinion can pretend to produce; but whether they are convincing or not, must be left to the Judgment of the impartial Reader: Yet however, so much is plain, that this Reason signifies nothing, that these *Two Writs* last mention'd, were the first that were ever issued out for the summoning of *Knights*, *Citizens*, and *Burgesses* to Parliament; and to clear this, let us for once suppose, that the Doctor had never found this loose Writ of the 18th of *Edward the First*, for the summoning those *Two or Three Knights* to a *Great Council* or *Parliament* (call it which you please) might he not then as well have asserted, that there were not any *Commons* in Parliament, from the 49th of *Henry the Third*, to this of the 23d of *Edward the First*, whereby the *Knights*, *Citizens*, and *Burgesses*, are all alike summon'd.

And as for the Doctor's other Argument, from this very *Writ* of the 18th of this King, wherein no *Citizens* and *Burgesses* are at all mention'd, I think I have with greater Probability made it clear (than he hath done the contrary) that this was no *Summons* to a *Parliament*; nor can it be proved, that the like *Writs* were sent to all, or most of the Counties in *England*: He says indeed, *That they were to several, or most of them*, but herein he is mightily mistaken; for upon Examination, I can find no such *Writs* sent but to *Twenty five* of them, which is far short of all the Counties of *England*, as it ought to have been, to have made a full *Representative* of the whole *Community* of other *Military Tenants*, whom only the Doctor will allow to have been represented by them: And if his Friends shall here object that there might have been more *Writs* in this Bundle, to the rest of the Counties, which are now lost, why is not that as good a Plea for the loss of all *Writs*, for electing any *Commons* to Parliament before this Time? And whereas the Doctor makes use of this as an Argument, that there were no *Citizens* and *Burgesses* summon'd to Parliament, till the time he assigns, because there are none mention'd in that of the 18th of this King, it is so far from passing with me for a good Reason, that it rather seems a very bad one for him, and proves what I have asserted,

serted, That because no *Citizens* and *Burgeffes*. were order'd to be summon'd by this Writ, therefore it was not a *Summons* to a *Parliament*, but to a *Colloquy* or *Treaty* of *Two* or *Three Knights* of certain *Shires*, to treat with the *Earls* and *Barons* only, no *Bishops* nor *Abbots* being therein mentioned.

I shall now proceed to the rest of the Doctor's Observations upon this Parliament in the 18th of this King, which (* if the Doctor may be believed) gave the King a *Fifteenth* Part of their Moveable Goods, as appears by the account upon the * *Great Roll* in the 23d Year of this King, especially in the two last *Rolls* thereof; the Title of that Account, wherein we also have the *Style* of that Parliament, runs thus.

The *Account* of the *Fifteenth* granted to the King in his *Eighteenth* Year, by the *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Earls*, *Barons*, and *All Others of the Kingdom* assents'd, collected; and levied by *Divers Collectors* in several *Counties*, in the same *Eighteenth* Year. This is the very same *Style* which was used in the *Reigns* of King *John* and *Henry the Third*, before the *Commons* or *Communities* of *Counties*, were represented by *Knights* chosen by them: And 'tis here further to be noted, that the *Two* or *Three Knights*, chosen for the *Community* of the *County*, did represent them, and according to the *Form* of the *Writ*, consulted and assented to a *Fifteenth* for them, which are here called the *Omnes Alii de Regno*, and were *Military Tenants* in *Capite* of the *Ordinary Rank*, but of the same *Order* with the *Knights*. * In the *Cheque-Roll* of the 19th of *Edward the First*, there is the *Form* of a *Writ*, to appoint *Taxors* and *Collectors* of this *Fifteenth* in these Words: *Edward* by the *Grace* of *God*, &c. to the *Knights*, *Freemen*, and whole *Community* of *Counties* (none named) &c. Greeting, whereas the *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Earls*, *Barons*, and *All Others of our Kingdom*, now, as at other times, to *Us* and our *Progenitors*, have freely granted a *Fifteenth* Part of all their *Moveable Goods*, &c. Witness our self at *King's-Clipton*, the 22d of *September* in the *Eighteenth* Year of our *Reign*. Here we find the same *Persons* only granted this *Fifteenth*, who were wont to grant the same manner of *Taxes* in the *Times* of his *Progenitors*. This, tho' the Doctor thinks it illustrates what went before, yet rather confounds it, as I shall shew farther by and by.

In the mean while I shall look back and make some *Animadversions* upon what, I think, the Doctor hath very inconsiderately laid down: In the First Place, albeit I do not deny, that the King had a *Fifteenth* given Him this Year in *Parliament*; yet that this was done in that very Parliament which the Dr. mentions in his * Answer to Mr. *Petyt*, which met on the First of *June* this Year, and gave the King *Forty Shillings* of every *Knight's Fee*, for the Marriage of his *Eldest Daughter*, I can scarce believe; for we do not find, that the *Parliaments* of those *Times* were wont to grant *Two* such *Great Taxes*, the one upon *Goods* and the other upon *Lands*, in one and the same *Session* of *Parliament*. And notwithstanding the Doctor observes, that this *Grant* of a *Fifteenth* made in the very same *Style* as was used in the *Reigns* of King *John* and *Henry the Third*, before ever he allows the *Commons* or *Community* of *Counties* to be represented by *Knights* chosen by themselves; yet this rather

* Ibid.

* In Officio Pipe apud Westmonast.

Ibid.

* Ibid. p. 27. In the Custody of the King's Remembrancer, Inter Communia de Term. S. Mich. Rot. or n. 5.

Page 149.

* Page 33.

rather militates against, than any way makes for his Opinion, since if the *Two* or *Three Knights*, who he says presently after, were chosen by the Community of the County, did represent them, and according to the Form of the Writ consulted and consented to a *Fifteenth* for those who are here called the *Omnes Alii de Regno*, and were Military Tenants in Capite of the Ordinary Rank, but of the same Order with the Knights; I say if so, I would then ask the Doctor's Friends, who they were that made up that whole Community of the Kingdom in Parliament, and who (as appears by the Writ of the Thirtieth of this King) gave the above-mentioned *Forty Shillings* out of every *Knight's-Fee*? If they say, (as he doth in his * Glossary, citing this Record) that it is from thence very clear, that such as paid this Scutage of *Forty Shillings* for a *Knight's-Fee*, were the *tota Regni. Communitas* and no Others; and of these the Tenants in Capite granted, and paid it first for themselves and their Tenants; and that then by this Community the Tenants in Capite only are to be understood, who were supposed to be present in this Parliament; then pray, to what purpose should any other Military Tenants in Capite be afterwards summon'd to this Parliament, to grant this *Fifteenth* upon Moveables, when the whole Body or Community of them was already, by the Doctor's own Allowance, present in Parliament; and might then (according to his Conceit) as well have granted this *Fifteenth*, as they did the *Forty Shillings Scutage* upon every *Knight's-Fee*? But if it be said, that these Knights were not Tenants in Capite, but other Inferior Military Tenants, who had received the Order of Knighthood, it will not at all mend the matter; because if the Tenants in Capite were present and represented them, it had been very needless to summon those to Parliament to grant a Tax for their Lords, as well as for themselves; since the *Earls, Barons*, and less Tenants in Capite, were always wont to grant it for them. Nor is this the only Absurdity that attends the Doctor's Interpretation of this Record; for if the *Omnes Alii de Regno* here mention'd, were only the Tenants in Capite, of the Ordinary Rank, as he will here have them, how could they give a *Fifteenth* of all the Moveable Goods in the Kingdom; Or how could they grant for those whom they could no ways represent, viz. the King's Tenants in *Petyt-Serjeanty*, as also all Tenants by *Socage-Tenure*? whom the Doctor will have to be but very few? but I think I have shewn, that they must have been at this time a great Body; and besides this, all *Cities* and *Boroughs* must have granted this *Fifteenth* as well as the rest of the Kingdom, for that the King could not tax them at his Pleasure, I hope to prove hereafter, notwithstanding what the Doctor asserts to the contrary.

But as for the Commission of the Ninteenth of this King, for the appointing Taxors and Collectors to gather in this *Fifteenth*, which is directed to the *Knights, Freemen*, and the whole Communities of Counties; I think this too will rather make against than for him; for as for the *Liberi Homines*, or *Freemen*, tho' the Doctor in his Glossary will have them to signify Tenants in Capite, or at least those that held by Military Service, yet I hope I have already sufficiently proved, that these Words must have another signification in this place, as well as the whole Community of Counties which immediately

diately follows; or else none but Tenants *in Capite*, and those by *Knights-Service*, could have either paid or granted this *Fifteenth*, which will fall very short of *All Others of the Kingdom*, who are there said to have granted it. And besides this, I cannot but observe what follows in this Writ, *viz.* ‘Whereas the *Archbishops, Bishops, Abbots, Priors, Earls, Barons, and All Others of our Kingdom*, now, as at other times, to Us and our Progenitors, have freely granted a *Fifteenth part of all their Moveable Goods, &c.* From whence I thus infer from the Doctor’s own Concession, that it the *Knights of Shires* then granted this Tax for all Others of the Kingdom, as they had formerly done at other times to the King and his Progenitors, it will then follow, that the *Omnes Alii de Regno*, as represented by *Knights of Shires*, gave Taxes of this kind to King John, Grand-father to Edward the First, and may by a reasonable Construction be extended yet higher as far as the Reign of Henry the Second, or else the Averment in this Writ would not be true, that *All the Orders of Men* above-mentioned, and *Oil Others* of the Kingdom, now as at other times, had granted such Aids to the King and his Progenitors.

Dr. B’s Treas-
tise, ut Sup.
pag. 27.

But the Doctor is so confident, that the *Cities and Boroughs* had not *Representatives* in this Parliament, when the *Fifteenth* above-mention’d was granted, that he will have it then levyed upon all the *Cities and Boroughs* in England without their *Consents*: his * Words * *ib. p. 27.* are these.

The *Cities and Burghs*, or at least the *City of London*, this year had also a *Fifteenth* taxed and levyed upon them, which notwithstanding it was demanded by the King, without their being *summon’d* to Parliament, by *Citizens and Burgessees* their *Representatives*, yet their *Compliance* with the King’s *Demands* was called a *Grant*.

This he endeavours to prove from the same *Account-Roll* of the same *Great Roll* above-cited, where certain Persons (needless here to be named) appointed *Assessors* and *Collectors* of the above-mention’d *Fifteenth*, granted to the King in the *City of London*, and within the whole *Precinct* of the same *City*, in the *Eighteenth Year* of his Reign, were order’d to give *Account* of 2860 *l.* 13 *s.* 8 *d.* of the same *Fifteenth*, as it is contain’d in the *Roll of Particulars* delivered into the *Treasury, &c.*

And on these Words, granted to the King in the *City of London*, the Doctor hath made this Marginal Note, (with a reference to the word granted, *viz.* Upon the King’s Demand, and sending to them, which how the Doctor could make out from this Record, I know not; for any one that reads it would think, that they had granted this in Parliament, or in a Council or Colloquy at least.

The † Doctor’s next Instance to prove that the *Citizens* and *Burgessees* were not summon’d to Parliament, till the *Twenty third* of this King, is a certain Writ of *Summons* directed to the Sheriff of *Northumberland* in the *Twenty second* of Edward the First, for a Parliament to meet at *Westminster* on the morrow after *St. Martin*, and therefore commands the Sheriff to cause to be chosen out of the *County* aforesaid, two discreet *Knights* most fit for *Business*, with full *Power* for themselves and the whole *Community*

† *ib. p. 28, 29.*
Rot. Claus. 22
E. I. m. 6. Dorse

'munity of the County aforesaid, to *consult* and *consent* to those things, which the *Earls, Barons, and Noblemen* aforesaid, shall have *unanimously ordained* in the premises, &c. Witness the King at *Westminster* the eighth day of *October*.

* *Id.* 29.

* The like Letters or Writs, the Doctor says, were directed to every Sheriff in England; witnessed as above.

Then on the day following, (that is) on the Ninth of *October*, the King directed other Writs (reciting in them much of this above) 'to every Sheriff to cause to be elected, two Knights more, to be added to the former, to come to Him at the same time and place, to hear and do, what he should there more fully enjoin them. Here were no *Citizens* or *Burgesses* summon'd by these Writs, and none but *Knights*, in number four, who with the *Earls, Barons, and Great Men*, on the very day of their Meeting, gave the King a Tenth of all their Goods, and the Writs or *Commissions*, whereby *Taxors* and *Collectors* of the same Tenth were assigned in every County, bear date the same day, as is most evident from the Records following.

And then the Doctor cites an old *Account-Roll* in the *Exchequer*, which hath this Title, as I shall render it to you in *English*:

*The Tenth of Temporal Goods, granted to the King in England, on the morrow of St. Martin, * in the Twenty second Year of King Edward the First, ending, and the Twenty third, beginning.*

* Note, K. Edward III
his Reign
Novem. 16.

1272. So that
this was done

A. D. 1294.

Treatise, p. 30.
† *Ib.* Par. 22
Ed. I. M. 2.
in Cedula.

Then follows in the same place, this Title, *The Taxors and Collectors* of the same Tenth are assigned in every County in this Form; thus translated:

'† The King to the *Knights, Frecholders, and the whole Community* of the County of *Cumberland*, Greeting; whereas the *Earls, Barons, Knights* and *All Others* of our Kingdom, have liberally granted to us now toward the War, as heretofore to our Progenitors *Kings* of England, a Tenth of all their Moveable Goods, * except those things, which were excepted in the last *Fifteenth*, which was formerly granted unto Us, &c.

* i. e. Their
Armour, Plate
of ordinary
Use, Jewels,
and wearing
Apparel.

Then follow the Names of the *Taxors* and *Collectors* to gather the said Tenth, which are needless here to be recited.

After which the Doctor proceeds to shew from *Matt. Westminster*, that the King call'd another Parliament this Year, to advise how to regain what He had lost in *Gascoigny*; and towards this War the *Clergy* granted a *Moiety* of their *Benefices* and Goods for that Year, as appears by the King's Writ or *Commission* to the Abbot of *Faversham* to collect the same for the Province of *Canterbury*, which the Doctor hath there cited at large, bearing date at *Westminster* the thirtieth of *September* in the Twenty second Year of his Reign.

But the Doctor is certainly mistaken in making this *Convocation* of the *Clergy*, which gave the King a *Moiety* of their Goods and Revenue, to be held at the same time with the *Parliament*, which granted him the *Fifteenth* above-mention'd; since this Writ for collecting the *Tenths* of the *Clergy* bears Date the 30th of *September* in his Twenty second Year, whereas the *Parliament* which granted the King the *Fifteenth* did not meet until the 12th of *November* the Year following; but however for all that, the Doctor confounds

confounds them together, as appears by this following Inference which he makes from this *Writ*, as well as the former.

* Here we have a *Moiety* given this year of their *Benefices* and Goods * *Ib* p. 31 by the Clergy, and a *Tenth* by the *Earls*, *Barons*, and *Knights*, for all others of the Kingdom, that is, all *Free-Tenants*, such as held in *Military Service*, and others in *Socage*, which then were very few. Let us now see (says he) how and what the *Cities*, *Burghes*, and King's *Tenants* of his *Demefnes* gave, or paid by themselves, not being then reckoned, *inter Omnes Alios de Regno*, who granted a *Tenth* part only.

These (says he) then were neither *summon'd*, nor came to a *Common Council*, or *Parliament*; but were required and induced by the King's Commissioners, or Taxors to pay a certain Sum charged upon, or demanded of them, which at this time was a *Sixth* part of all their *Moveable Goods*, towards the War. The City of *London* was first sent to, and made an *Example* to all other *Cities*, *Boroughs* and *Towns* of the King's *Demefnes*, and their *Compliance* with the King's *Demands* passed as, and under the name of a *Grant*.

This is indeed a very bold Assertion, and we shall see how the * Doctor will prove it; why truly he endeavours to do it by a *Writ* directed to the City of *London* in this form in *English*; 'The King to his Beloved and Faithful the Mayor, &c. and to the whole Community of the City of *London* Greeting: whereas in the form in which you lately granted Us a *Fifteenth*, you have also liberally and freely granted Us a *Sixth* part of your Goods and Moveables as an Aid for our War, we being willing to provide that the said *Sixth* part should be levied and collected to the least Damage and Grievance of you, and each of you in the said City, have appointed John de Banquelle, and five other Persons there named to be the Collectors of the said Tax. The Date of this *Writ* the Doctor hath not put down; but we must suppose it to have been some days before the following Commission, and then the Doctor says thus.

Ibid.
Inter Records de Anno 23. Ed. 1. Rot. 73. penes Rencm. Regis. De Sexta parte Regi concessa in London.

' And after the Example of *London*, the King sent his Commissioners to Tax or Demand of his other *Demefne Cities* and *Towns* a *Sixth* part throughout *England*.

' I will not trouble you with the *Latin*, but shall give you the *English* of this Commission transcribed at large, that the Reader may see the manner of taxing the Kings *Demefnes* in those times.

* The King to his well-beloved and faithful Robert de Ratford, * *Ib. eodem Anno & numero. De Diversis Assignatis ad potendum Consuilem Sextum in Dominiciis Villis Regis in Diversis Comitibus.* Greeting. Whereas our Citizens and Good Men of *London*, have willingly granted to Us toward maintaining our War, a *Sixth* part of their *Moveable Goods*, that they might shew an *Example* to others of our *Demefne Towns*, to make the like Aid. We have assigned you to demand a like sixth part in every of our *Demefne Cities*, and other *Towns* in the Counties of *Kent*, *Suffex*, *Surry*, and *Southampton*, according to the *Taxation* of the *Tenth* now granted to Us in our Kingdom; and therefore We Command you, that taking with you the *Sheriffs* of Places, ye personally go to every of our *Demefne Cities*, and other *Towns*, and diligently on our behalf require, and effectually induce the Men of the same *Cities* and *Towns*, by such means as you think expedient, to give and grant to Us the said *Sixth* part, according to the *Taxation* aforesaid, and what you shall

' shall do herein, you shall *signifie* to Us, or our *Treasurer* and *Barons* of the *Exchequer*, without delay. In Witness of which thing, ' We have made these our Letters Patents. Witness the Venerable ' Father, &c. the 21st of *November*, the 23^d year.

*Ibid. Eodem
Anno. Num.
five Rot. 73.*

By the like Letters the several Persons there under-named are appointed to *collect* the like *Sixth part*, in each of the *Demefne Cities*, and other *Towns* belonging to the King in all the *Counties* there under-written, which are all, or most of the rest of the *Shires* of *England* not needful to be here recited.

From all which the Doctor draws this general Conclusion; ' By ' all these *Records*, says he, 'tis most clear, there were no *Citizens*, ' *Burgeses*, or *Tenants* of the *King's Demefnes* *summon'd* to great *Councils* or *Parliaments*, until the 23^d of *Edward the First*, and also how ' they were *Taxed* before that time.

But whither this was true or not, we shall now proceed to examine; and first I cannot but take notice, that the very words of both these *Writs* above cited, the one to the City of *London*, and the other, for *collecting* this *Sixth part* in *Cities* and *Towns* of *Antient Demefne*, do no ways countenance the Doctor's Assertion, that the *Cities* and *Borough-Towns* of *England* were not *summon'd*, or came to a *Common-Council* or *Parliament*, but were *required* and *induced* by the *King's Commissioners*, or *Taxors* to pay a *certain Sum* charged upon or demanded of them, and that their *compliance* with the *Kings Demands* passed as under the name of a *Grant*. But how can these words in the *Writ* it self bear that meaning? which are *since you (the Citizens of London) have liberally and freely granted Us a Sixth part of your Goods*, and in the following *Commission* for *collecting* it in other Places, it is recited, that the *Citizens and good Men of London, have freely granted a Sixth part*, &c. which seems to import, not a *meer Imposition* or *Taxation* at will, but a *voluntary Concession* somewhere made, *precedent* to the *Demand*, and where could this *Grant* be more properly made, than in the precedent *Parliament*, though it be not expressly mention'd in the *Writ* it self? And I shall prove this by comparing the date and purport of this *Writ*, with that of the 22^d of this King, whereby the *Earls, Barons, Knights*, and *all Others* of His Kingdom *granted* the King a *Tenth* of their *Moveables*, in both which the words are almost the same. In this *Writ* it is said, that the Parties abovemention'd with *all Others* of the Kingdom, *liberaliter fecerunt Decimam partem de Omnibus Bonis suis Mobilibus*: And the words in the *Writ* now before us are, *Sextam partem Bonorum & Mobilium Vestrorum in subsidium Guerræ nostræ nobis Concesseritis liberaliter & libenter*; which are both to the same sense, only in one it is *fecerunt*, and in the other *concesseritis*. And though it is true, that the next *Writ* for the gathering this *Sixth part* upon the *Towns* of *Antient Demefne* do plainly shew, that their *Grant* of it was done out of *Parliament*; yet it doth not from thence follow, that the City of *London*, and other *Cities* and *Towns* which were not the *King's Antient Demefnes*, could be included within those *Writs*, since the *Commissioners* are thereby impowered to *demand* the like *Sixth part* of the *King's Demefne, Cities* and *Towns* in the *Counties* there mention'd, but of no Other: Nor doth the *second Writ* call *London* one of the *Demefne Cities*, for the words of the *Writ* are, *ut aliis, qui sunt de nostris*

noſtris Villis Dominicis Exemplum præbeant ad Conſimile Subſidium faciendum, which is thus to be tranſlated, that they, *viz.* the Citizens of London may ſhew an *Example to Others*, who are of our *Demeſne Towns*; and not as the Doctor hath here render'd it, *that they might ſhew an Example to Others of our Demeſne-Towns, to make the like Aid.*

But ſuppoſe we ſhould admit London as well as other places to be now *taxed*, as a Town of *Antient Demeſne*, the Doctor would gain no advantage by it; for this *Sixth part* being to be levied only upon ſuch great *Cities* and *Towns*, as held in *Antient Demeſne*, could never concern the Major part of the *Cities* and *Boroughs* in England, which never held by that Tenure; ſo that they either wholly eſcaped without paying any thing to this *Tax*, or elſe they muſt have granted it by their *Representatives* in *Parliament*.

And that thoſe *Cities* and *Boroughs* which were not *Antient Demeſne*, granted the *Sixth part* of their Moveables in the laſt *Parliament*, when all *Others* of the Kingdom granted a *Tenth*, is more than probable, by thoſe words in the *Commission*, for the collecting this *Tax* of the *Cities* and *Towns* in *Antient Demeſne*, * which was to * Ibid. p. 31.
be done, *Secundum Taxationem Decimæ jam Nobis in Regno noſtro conceſſæ*, that is, in a due proportion to every Man's Eſtate, according to the *Taxation* of the *Tenth* already granted in our Kingdom. This muſt be the *Tenth* before granted in *Parliament*, for there was no other *Tenth* given or paid ſince that time; and therefore though the *Writs* of *Summons* are now loſt, yet *Citizens* and *Burgeſſes* might very well have been ſent to this *Parliament*, for preſently after it, *viz.* in this very year, the † Doctor himſelf in his *History of the Reign* † Contin. of the Compleat Hiſt.
of this King, ſays, that the *Citizens*, *Burgeſſes*, and *Tenants* of the King's *Demeſnes*, paid a *Sixth part* of their Goods, but they not being granted in *Parliament*, there were *Commissioners* ſent to every *City*, *Burgh* and *Town* of his *Demeſne*, to *require* and *induce* them, to pay a certain Sum charged upon, or demanded of them toward the War, which at this time was a *Sixth part* of their Goods, which was required firſt, and granted in London, as an *Example* to other Places. The *Commission* for all Counties in England bears Date the 21^{ſt} of November, twenty third of *Edward the Firſt*, and if the Doctor allows this *Tax* to have been granted this year by the *Cities* and *Boroughs*, in imitation of the *Tenth*, that was already granted by the reſt of the Kingdom; I may, I think, carry it further, and ſuppoſe that the *Cities* and *Boroughs* had their *Representatives* in this *Parliament*, for otherwiſe thoſe that were not *Antient Demeſnes*, (which were far the Major part) muſt have paid nothing to this *Tax*. And though the Doctor here ſays, that all the *Citizens* and *Burgeſſes* in General paid the *Sixth part* of their Goods, yet that is more than the Authorities he vouches do warrant; ſeeing it is expreſſly limited by the *Commission* above-mention'd, that the Collectors ſhall gather in each of the *Demeſne Cities* and *Towns* belonging to the King, and None Other, as hath been already obſerved.

I am ſenſible, there are two *Objections*, that may be made againſt this Suppoſition; the One, that in the *Writs* to the Sheriffs for the *ſummoning four Knights* of *Shires* to the laſt *Council* or *Parliament*, there are no *Citizens* and *Burgeſſes*, order'd to be ſummon'd by them.

The other is, that the *Writ* to the City of *London*, assigning certain *Commissioners* to collect the *Sixth part* of their Moveables, as also the *Commission* granted for the raising the like Tax from the *Cities* and *Towns* in *Antient Demesne*, do both of them bear Date in *November*, in the twenty third year of this King; whereas the *Writs* or *Commissions* issued for the appointing *Collectors* for the *Tenth*, that had been granted in the last Parliament is dated the 12th of *November*, in the twenty second year of his Reign, which is above a year before; and then it is not likely, if this *Sixth part* had been given in *Parliament*, that the King would have omitted the collecting of it for above a Twelvemonth after; and therefore it is more probable that it was demanded of, and impos'd upon all the *Cities* and *Boroughs* of *England*, as well those who held in *Antient Demesne*, as those that did not, by the King's sole Prerogative, in the interval between the last Parliament, and the next of the twenty third of this King, that met but a few days after the Date of the *Writ* and *Commission* above-mention'd, for levying that Tax upon the *Cities* and *Towns* of *Antient Demesne*.

To the first of these Objections I answer thus, that in those *Writs* of *Summons* to the *Council* or *Parliament* of the twenty second of this King, the *Citizens* and *Burgesses* are not summon'd, yet there might be some *Other Writs* issued out at the same time to the *Sheriffs*, that they should cause two *Citizens*, and two *Burgesses* to be chosen for every *City* and *Borough* of *England*, which *Writs* were not enter'd upon the *Close-Rolls* of this year, or if they were, may be since embeziel'd, or taken off on purpose to conceal the truth, or else they might be sent down in *loose Writs*, which are now lost, and were never enter'd at all.

Nor can the Doctor's Friends have any reason to except against this Supposition, since these *Writs* of the eighteenth of this King, on which alone the Doctor lays the whole stress of his Authority, that the *Knights of Shires* were then first again summon'd, are enter'd in certain *loose Schedules*, which if the Doctor had not discover'd, might have been utterly lost and destroy'd, as were doubtless many other considerable *Writs* and *Records*, which had been long ago carried up into the *White-Tower*, and there rotted with the dampness of the Place, though some of them have been retrieved by the indefatigable Pains and Industry of Mr. *Pryn*, as Others have been since by the like care of Mr. *Petyt*, the present Keeper of those *Antient Monuments*.

And as to the second Objection concerning the Date of the *Writ* and *Commission*, whereby it appears that the *Sixth part* assessed upon the Inhabitants of *Cities* and *Towns* in *Antient Demesne*, was not collected, and therefore that it was not likely to be granted till the twenty third of this King, and that in an Interval of Parliament. This, I say, is no material Objection, since the King might for some Reasons best known to Himself, only levy the *Tenth* which had been granted by the *Knights of Shires* for their respective Counties, and might defer the collecting of the *Sixth part* that had been given by the *Citizens* and *Burgesses*, till the following year, when He wanted a fresh supply of Money; and at the same time on the like occasion, He thought fit to demand the like Aid of all *Cities* and *Towns* of *Antient*

tient Demefne; and though *London* was propos'd as an *Example*, yet was it not as a *City of Antient Demefne*, but as being the Capital City of *England*, was to be a Pattern for all places of *Antient Demefne*, to grant the *like Tax* of a *Sixth part*. And that the King might very well defer the levying of this *Tax* for a *Twelvemonth*, the Doctor's Friends can have no reason to deny, for that in his ** Answer* to Mr. *Petyt*, and also in his *Glossary* he hath cited a *Writ* of the 30th of this King, which relates to the *Parliament* held in the 18th year of his Reign, wherein a *Scutage* of *Forty Shillings* was granted by all the *Orders* or *Eftates* therein mention'd, for an *Aid* to Marry his Eldest Daughter, which had nevertheless remain'd *unlevied* from the 18th to the 30th year of his Reign. And if this King could omit the levying so great a Sum, as this *Tax* of *Forty Shillings* upon every *Knights-Fee* through all *England* for twelve years, He might certainly forbear the *Collecting* and *Levying* this *Sixth part* of the *Moveables* of the *Cities* and *Towns* in *Antient Demefne*, which was a much less Sum, and defer'd to a far shorter time. And therefore I shall now leave it to the Reader's Judgment to consider, whether the Doctor from the *Records* he hath cited, hath made his Conclusion so clear and evident, as he supposes, that there were no *Citizens* nor *Burgesses* summon'd to *Great Councils* or *Parliaments*, until the 23d of *Edward the First*, and also that they were *Taxed* before that time at the *King's Will*, and by his *sole Prerogative*. But we must not yet leave

P. 149.

* the Doctor, but return back to the 23d of this King, wherein he supposes the *first Writ* of *Summons* of the *Cities* and *Burgesses* to *Parliament* were issued; from whence he observes, that the *Writ* directs that those *Citizens* and *Burgesses* should have a *Power* to act separately from the *Knights* of the *Counties*, and do what by *Common Councils* should be ordained, in these words, *Et dicti Cives, & Burgeses Plenam & sufficientem potestatem, pro se, & Communitate Civitatum & Burgorum Divisim ab ipsis (i. e. Militibus) tunc ibidem habeant, ad faciendum tunc quod de Communi Concilio Ordinabitur in præmissis*. And accordingly they made a different Grant, the *Earls*, *Barons* and *Knights*, who then sat, treated, and consulted altogether, about granting *Taxes*, gave an *Eleventh part* of all their *Moveable Goods*, and the good Men of his *Demefne Cities* and *Burghs* granted a *Seventh part* of all their *Moveable Goods*.

* Treatise.
Ib. p. 32, 33.

† And according to the Addition made in the *Writ* of *Summons*, when the *Citizens* and *Burgesses* are supposed first to have come to *Parliament*, there was also an Alteration made answerable to it in the *Writ*, or *Commission*, for appointing *Taxors* and *Collectors* for the *Levying* and *Collecting* of his *Eleventh*, and *Seventh part* in the several *Counties*, which is not to be found in these *Writs* or *Commissions* before this time. The words of the *Writ* or *Commission* are thus translated into *English*.

† Ibid. 33.

|| 'The King to the *Knights*, *Freeholders*, and *whole Community* of the *County* of *Rutland*, Greeting. Whereas the *Earls*, *Barons*, *Knights*, and *Others* of our *Kingdom* have now liberally granted toward our *War*, as they have done at other times to *Us* and our *Progenitors*, an *Eleventh part* of all their *Goods* and *Moveables*.

|| Pat. 24.

Ed. I. p. 1.

M. 22. De un-

decima & Sep-

tima Regi

Concess. Le-

vand & Col-

legend.

† And the *Citizens* and *Burgesses*, and Other Good Men of our *Demefne Cities* and *Boroughs* have likewise courteously granted a *Seventh part*

† The Doctor here notes, that

these words
were not in for-
mer Commis-
sions for ap-
pointing Tax-
ors and Col-
lectors.

part of all their Goods and Moveables, excepting those which were excepted in the Tenth, which was last granted to Us, &c. Then follows the Clause for appointing his Assessors and Collectors of both the said Seventh, and Eleventh Parts in that County, dated at Westminster the fourth day of December, which was about three or four days after the 30th of November, when this Parliament first met, and within which time, this Subsidy upon Goods was granted.

Ibid.

From which the Doctor thus observes, that according to the Tenor of the Writ of Summons, we find by this Commission, that the Citizens and Burgesses were in this Parliament, and that they were different Persons from the Alii de Regno, mention'd after the Earls, Barons and Knights, for they gave an Eleventh part, and these the Seventh, somewhat more than a third beyond what the others gave, and it became a settled Rule afterward, for the Citizens, Burgesses and Tenants in Antient Demesne to give a Third part more, or thereabouts of their Personal Estates, than the Earls, Barons and Knights did grant.

† Ibid. p. 35.

† The Summons to this Parliament directed to the Archbishop of Canterbury is very observable, and may (says the Doctor) furnish us with the Reason why, the King summon'd the Citizens and Burgesses to it.

|| Rot. Claus.
23 E. I.
M. 3. Dorf.
De Parliamen-
to tenendo a-
pud Westmo-
nasterium.

Then follows a † Writ of the 23d of this King, directed to the Archbishop of Canterbury, and begins with this remarkable Clause, by the Doctor thus translated into English.

As the most just Law established by Princes doth appoint, that which concerns All, should be approved by All: So it evidently shews, that Dangers common to All, should be obviated by Remedies provided by All. And then it proceeds to set forth the King of France's fraudulent surprize of Gascony, and the late Invasion of the Kingdom with an intent to destroy the English Nation and Language, &c. and then concludes with that notable Clause, which hath been continued in all Writs of Summons for the Clergy to this day, firmly commanding and enjoining him the Archbishop in the Faith and Love by which he stood obliged to the King, to be himself at Westminster on the Sunday next after the Feast of St. Martin next coming, and that he should warn the Prior and Chapter of his Church, the Archdeacon, and whole Clergy of his Diocese, and cause the Prior and Archdeacon in their own Persons, and the Chapter by One, and the Clergy by Two fit Procurators or Proxies, having sufficient Power from the said Chapter and Clergy to be present with him, then and there to Treat, Ordain and Appoint with Him and the rest of the Prelates, Great Men, and other Inhabitants of the Kingdom, how to prevent these dangers and design'd Mischiefs. This bears Date at Wengeham the 30th of September, being above a Month before the Writs for Summoning the Knights, Citizens and Burgesses were issued.

|| Ib. p. 34. 35.

This (|| says he) is the first Summons I find directed to the Archbishop, by which he was order'd to cause the Body of the Clergy of his Diocese and the Chapter, to come to Parliament with him, by their Procurators or Representatives, and the same Reason given in this Writ, that brought them thither, brought also the Citizens and Burgesses, as may appear by the Writ before recited, directed to every Sheriff of England, for the first choice of them; and is dated the

third

third day of *October*, next following after the *Date* of this to the Archbishop.

Having thus fairly recited word for word, whatever Authorities or Arguments the Doctor liath thought fit to produce on this point, I shall make now some short *Animadversions* upon them: In the first place, I cannot see that any such great stress is to be laid upon that *Clause* in this *Writ* of the 23^d of *Edward the First*, on which the Doctor builds all his Inferences, *viz.* that the said Citizens and Burgeses should have full and sufficient power for themselves and the Community of Cities and Boroughs separately, from them (i. e. the Knights of Shires) then to do, what shall be ordain'd by common Advice concerning the Premises.

For though I grant by this *Clause*, they were impower'd to make a different Grant of Taxes from the Earls, Barons and Knights of Shires, who then sat, treated and consulted together; yet this doth not prove it to be a new thing, which was never practis'd before, since when ever they were summon'd, it was necessary they should be impower'd by those that sent them. And though it is true, the Citizens and Burgeses at that time treated apart concerning the quantity of the Tax granted upon their Moveable Goods, because it was more in proportion then the rest of the Kingdom at that time paid, yet as this might not be the first time that they granted these sorts of Aids, so neither was it the last; the same way of granting them being continued throughout all the rest of this King's Reign, as appears by that noted *Record* already cited of the 34th of this King, when All the Estates of the Kingdom granted Him an Aid of their Moveable Goods, the Particulars of which shall be mentioned hereafter; for Knighting the King's Son, and towards the War with Robert Bruce. And the like manner of granting Taxes in use all his Successor's time, until about the beginning of King Edward the Third, when the Lords Spiritual and Temporal continued to sit by themselves, and the Knights of Shires joyning with the Citizens and Burgeses, made a distinct House or Assembly, as they continue to this day

N. B.

So likewise the Doctor's Observations upon the *Writ* or *Commission* for appointing Taxors and Collectors for the Aid that was given in this Parliament of the 23^d of *Edward the First*, have nothing in them, but what may be easily answer'd; for as to his Marginal Note, that the *Clause* concerning the Citizens, Burgeses, and Other Good Men that liberally granted a Seventh part of their Moveables; though it is true they were not mention'd in the same *Commission*, for the levying of the like Tax upon Moveables granted by the Knights of Shires, yet all the difference between them, is, that there might be then two different Commissions granted for the assessing and collecting these Aids, the One of which was to certain Persons to assess and collect it from the whole Body of the Counties, and the Other for the doing the like in the Cities and Boroughs; for the words *Concefferunt*, or *Concefferint*, are found in both of them alike, as any one may observe, that will take the pains to compare them together.

So that there seems to be no great Mystery in this not mentioning the Citizens and Burgeses in former Commissions for the choice of Collectors for Counties, than that the King was pleased to do that by several

several Commissions, and by two different sets of *Commissioners*, which He thought fit in this *Writ* of the four and twentieth year of his Reign, (perhaps for the saving of double charges and trouble) to do by One single Commission, and to make the same Commissioners serve for *assessing* and *collecting* the *Eleventh* and *Seventh* parts as well from the *whole Body* of the Counties, as from the *Citizens*, *Burgesses* and *Tenants in Antient Demesne*; and yet for all that, the *Cities* and *Boroughs* might grant their share of these *Taxes* in *Parliament*, before this time which the Doctor here assigns for their *first appearing* in *Parliament*, and that only in order to grant those *Aids* abovemention'd.

For if the King could the year before this impose a *Tax* of a *Sixth part* upon the Goods of the City of *London*, and all Other *Cities* and *Boroughs* of *England* by his *Royal Prerogative*, I cannot see any reason why He might not as well have continued on the same way of *Taxing* them, without ever putting Himself to the trouble of calling a *Parliament*, or causing the *Representatives* to travel from one end of the Kingdom to the other, to the great charge of the *Cities* and *Boroughs* that sent them, who were obliged to defray their *Expences* during their going to, staying at, and returning from all *Parliaments*, as is particularly set down in the *Writs* for levying those *Expences* for *Citizens* and *Burgesses*, as well as those for *Knights* of *Shires*; and both these *Writs* (several of which are still preserved in the Reign of this very King) have also this particular Clause inserted, *sicut in Casu consimili fieri consuevit*, as I have already taken notice of in the Argument I have drawn from the Petition of the Town of *St. Albans*, which would never have been there inserted, had *Citizens* and *Burgesses* never been summon'd to *Parliament* till the 23^d year of this King. This cannot well be too often mentioned, being of so great Moment, and therefore I make bold to repeat it, to keep it fresh in my Reader's Memory.

Ib. p. 34, 35.

* But since the Doctor undertakes to give us some tolerable account from that Clause in the *Writ* to the Archbishop of *Canterbury*, for the *summoning* of the *Inferior Clergy* to this *Parliament* we are now discoursing of, that this was the *first Writ* of *Summons*, whereby it appears they were ever call'd to *Parliament* for the Reason given in this *Writ*, viz. that *that which concerns All, should be approved by All*; and concludes, that what brought the *Inferior Clergy*, brought also the *Citizens* and *Burgesses* to this *Parliament*, after near thirty years Intermission; I shall endeavour to shew, that this Reason tho' seemingly specious, yet hath no great substance in it; for if that Clause in the *Writ* was sufficient to move the King now to summon the *Inferior Clergy*, and the *Citizens* and *Burgesses* to the same *Parliament*, it might as well have prevail'd with Him to have done it, when He had the War with *Wales* upon his Hands, and being in great want of Money. He summon'd those three particular *Conventions* of the *Clergy* and *Commons* of the *South* and *North* of *England*, for the granting Him a *Benevolence* in that his extream Necessity. 'Tis true, we cannot positively prove by any *Writs* of *Summons* to *Parliament*, that the *Inferior Clergy* were ever summon'd thither before in this King's Reign, any more than the *Citizens* and *Burgesses*, yet it doth not follow therefore, that they were never summon'd to any *Parliament* of this

this King's before this of the *three and twentieth*, since they might have been *summon'd* to several Parliaments before, had those *Writs* to the *Bishops* and *Lords*, as well as to the *Commons*, been now to be found upon the *Rolls* or any where else. And suppose the Doctor had not by chance lit upon those *Writs* of the 18th and 22d of this King, whereby he would prove the *Knights of Shires* to be present in Parliament, three years before he vouchsafes the *Citizens* and *Burgessees* the like favour, no doubt but He would have urged this *Clause* in the *Writ* of the 23d of this King as a sufficient Reason, that the *Knights of Shires* likewise were now *first summon'd*, as well as the *Representatives of Cities and Boroughs*.

But besides all this, the case is not parallel between the bringing of the *Inferior Clergy* into Parliament, and this King's doing the same by the *Citizens* and *Burgessees*; for there might be a very good reason why He should by this *Clause* of *præmunientes*, cause the *Archbishops of Canterbury and York* to *summon* their *Inferior Clergy* to appear by their *Proctors* in Parliament, because by this means He could desire an *Aid* of them every time a *Parliament* met, which was in those times once, and sometimes twice in two or three years at farthest; whereas before their coming into *Parliament*, He had no opportunity of obtaining any *such Aid* from them, but when they met the two *Archbishops* in their respective *Provincial Synods*, which were not in the *King's Power* to call, but in the *two Archbishops* to assemble, as they thought fit; and though they might do it sometimes at his desire, yet his command they would often disobey, as indeed the *Archbishop of Canterbury* did at first in this very *Summons* now before us, as hath been plainly enough proved by those learned Pens, that have lately handled this Subject. But besides all this, when the *Clergy* were met in such a *Synod*, and that the King did either by One of the *Archbishops*, or else by *certain Commissioners* deputed on purpose, desire an *Aid* or *Subsidy* of them, either out of their *Ecclesiastical Revenues*, or *Personal Estates*, they might deny it when ever they pleas'd, or if they granted it, it was often done at the *Instance and Persuasion* of the *Bishops*, rather than their *own Inclinations*. Whereas (if you will believe the Doctor) the Condition of the *Citizens* and *Burgessees* of *England*, was wholly different from that of the *Clergy*; these were always free from being *Taxed* without their own *Consents*, whereas the other (as the Doctor represents them) were Men of *Mean and Servile* Condition, and who enjoy'd no *Liberties* or *Priviledges*, so much as of exercising their *Trades* and *Professions*, but what they derived from the *King's Charters*; so that being wholly his *Vassals*, He could impose what *Aids* or *Taxes* He pleas'd upon their *Personal Estates* (for *Lands* they had little, but what belong'd to their several *Houses* or *Dwellings*) so that the bringing of these *Citizens* and *Burgessees* into *Parliament* at this time seems no ways suitable to the Arbitrary temper of this Prince, who indeed loved *Absolute Power*, as much as his *Father* or *Grandfather*: Only when he saw the *Nobility* and *People* would not suffer it, He had so much discretion as to part with it, as any one may observe, that pleases to consult *Matt. Westminster* and *Walsingham* in the *Reign* of this King; and what hath been written from them in this last Volume of my General History.

But to return to the matter before us; what could the King propose to Himself by bringing them now into Parliament, I cannot imagine, unless it were to give them a liberty often times to *refuse*, as well as to *grant* those *Taxes* the King demanded of them; which you may see from this History they often did in the Reigns of King *Edward* the Third, and *Richard* the Second, when being joyn'd with the *Knights* of *Shires*, they obtain'd so much Power, that no *Bills*, or Demands of *Money* from the King could be brought into the *House of Peers*, till it had been first propos'd and consented to by the *Commons*. And so much for the Great Improbability of the King's bringing in the *Knights*, *Citizens* and *Burgesses* in *Parliament* at this time.

And as for the positive proofs which have been offered to the contrary, &c. that they were present in all former Parliaments in the last King's Reign, as well as this, I shall leave to the Reader's consideration; and will now proceed to the Account the Doctor gives us, concerning what *Cities* and *Boroughs* at first sent their *Representatives* to *Parliament*: which he doth as follows.

* Ib. p. 35.

* Having thus proved the time when, and the Cause why, *Citizens*, *Burgesses*, and the *Tenants* of the *Kings Demesnes* were at first summon'd to *Parliament*, we shall proceed to discover, what *Cities* and *Boroughs* sent their *Representatives*, or *Citizens* and *Burgesses*, upon such Summons. The Answer to this is very short, that they were only the *Dominici Civitates*, and *Burgi Regis*, the King's *Demesne-Cities* and *Burghs*, such as had *Charters* from the King, and paid a *Fee-Farm Rent* in lieu of the *Customs* and other *Advantages* and *Royalties* that belonged to the Crown, and were originally taken and gather'd by the King's *Collectors* and *Officers*, whether *Bailiffs*, *Port-Reves*, *Seneschals* or *Stewards*, or by what other Names they were called: But afterward collected and received by *Officers* chosen by the *Cities* and *Burghs*, according to *Licence* granted by the King's *Charter*, to the use of such *Cities* and *Burghs*, or perhaps sometimes by *Permission* only.

† Ib. p. 35.
App. N. 1. A.

This doth abundantly appear (says the † Doctor) by the Account given of Great *Yarmouth* in the *Appendix*, where after the Description of that, and *Gorleston* taken out of *Domesday Book*, it is said thus, (which I put into *English*) ‘ and it is to be understood, ‘ that the Progenitors of Our Lord the King held the aforesaid ‘ *Burgh* (that is, *Yarmouth*) in their own Hands, receiving all the ‘ profits issuing from the said Port, until the time of King *John*, ‘ who granted it in *Fee-Farm* to the *Burgesses*, paying to Him and ‘ his Heirs fifty five pounds by the year; for the payment whereof ‘ they had nothing but the *Customs*, and other *Profits* of the Port, ‘ neither might they at any time of the year take any *Customs* of ‘ things bought and sold in the *Mercate* upon the Land.

* Ib. p. 35, 36.
Ibid. Append.
N 1. A.

* Not long after King *John* had granted his *Charter*, there happened a *Controversie* between *Gorleston* and *South-Yarmouth* in *Lutthlingdon*, both on the other side of the River, and *Great-Yarmouth*, about certain *Customs* and *Priviledges* in the 12th of *Henry* the Third, and again in the 34th of *Edward* the First, which was determined in the *Exchequer* by the *Lord Treasurer*, the *Chancellor* of *England*, the *Justices* of both *Benches*, and others of the King's *Counsel* (in the manner already mentioned) by which *Record* it is evident, that
Great-

Ib. Append.
N 1. B.

Great-Yarmouth was holden of the King in *Fee-Farm*, was *stiled Villa Regis*, the *King's Town*, and *Liber Burgus*, a *Free-Burgh*, and enjoyed such *Liberties* as belonged to a *Free-Burgh*, only by, and in respect of the *Charter*.

I have fairly transcribed the Doctor's Arguments and Authorities for his Opinion, and shall now examine the truth of them; and as to his general Assertion in the first Paragraph, *that only the King's Demesne-Cities and Burghs, such as had Charters from Him, and paid a Fee-Farm Rent in lieu of the Customs and other Advantages and Royalties that belonged to the Crown, &c.* that it were these, and only such as at first were *Burghs*, and sent *Members* to Parliament I absolutely deny, since the greatest part of the *Antient Boroughs* by *Prescription*, were never of the King's *Demesne-Cities* nor *Boroughs*; nor had any such Charters from the King for the payment of a *Fee-Farm Rent*, in lieu of all *Customs, &c.* for most part of the *Towns of England* were *Boroughs* before ever they were *Cities*, or *Towns-Corporate*, and the greatest part of the *Borough-Towns* immediately holding of *Bishops, Abbots, or Temporal Lords*, never paid any such *Fee-Farm Rent* in lieu of *Customs*, and other *Advantages* and *Royalties* from the *Crown*, the King having nothing at all to do in most of those *Boroughs*. And as for what he hath cited from his own *Appendix*, relating to the *Borough of Great-Yarmouth*, it doth not at all concern the matter in dispute, since the Grant of the *Customs* or *Duties* of the *Port of Yarmouth*, was made to them after they were a *Borough*, and when they were already a *Town-Corporate*, as appears by the very words of this *Record* concerning *Yarmouth*, cited by the Doctor, wherein that *Town* is called a *Borough*, and the *Inhabitants Burgessees*, before King *John* granted it to them in *Fee-Farm* at the *Rent* aforesaid; and though in the Controversie between *Gorleston* and *South-Yarmouth*, and *Great-Yarmouth*, it was determined, that the latter was holden of the King in *Fee-Farm*, and was *Liber Burgus*, a *Free-Borough*, and enjoy'd such *Liberties* as belonged to a *Free-Burgh*, only by and in respect of their *Charter*; this (though it be true) doth not at all contradict what I assert, the question between us being, whether *Cities* and *Boroughs* have any Right of sending *Members* to *Parliament*, but as they are *Free-Boroughs* made so by *Charter* from the King, which the Doctor affirms, and I deny. And I shall leave it to the Reader to judge, whether it doth not appear by the *Record* it self, that *Yarmouth* was a *Borough*, and had *Burgessees* before ever it was made a *Free-Burgh*, and consequently as such a *Borough* might send *Members* to *Parliament*.

But let us now see what the Doctor says in opposition to this, which is as follows.

* It was, and is the *General Opinion* of *Lamyers*, that such *Towns* as sent *Burgessees* to *Parliament*, (tho' but very seldom, and paid *Tenths*, when they were granted in *Parliament*) were *Burghs*, notwithstanding they had not, nor perhaps now have, any *Charter, Fair, Market, Franchise*, or other *Liberties*, which should constitute and make them *Burghs*: But this is a mighty mistake; for there were *antiently*, and are yet, many *Towns*, that sent their *Representatives* to *Parliament*, which were not *Burghs*, but only *Towns of Antient Demesnes*, and these (in the granting of *Taxes* especially) consulted, and gave their consent

* 7b. p. 36.
Common's
Journal,
1 Maii 1628.

sent with the *Citizens* and *Burgessees*, who in all *Taxes* upon *Goods* and *Personal Estates*, did usually give and pay about *one Third*, or *Fourth*, more than the other *Towns*, which were neither *Cities* or *Burghs*, or *Ancient Demesnes*, before the *Tenths* and *Fifteenths* were constantly and regularly settled.

Ibid.
* Rot. Claus.
34 Ed. I.
M. 15. Dorf.
in Cedula
Append. N. 13.
Append.
N. 11, 12, 13.

This will be fully evinced by the following * *Records*; *Edward* the *First* intending to Knight his Son, summon'd the *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Earls*, *Barons*, and other *Great Men* to be before Him and his *Council*, on the *Morrow* after *Holy Trinity*, to treat of and grant an *Aid*, which was due upon that occasion. He also sent to all the *Sheriffs* of *England* to cause to come before Him and his *Council* on the same day, *two Knights* of every *County*, and of every *City* *two Citizens*, and of every *Burgh* *one* or *two Burgessees*, as the *Burgh* was greater, or less, to *Treat*, *Ordain*, and *Consent*, &c.

I find the *Doctor* is resolved to deny the *Opinion* of the *Learned Lawyers* that were *Members* of *Parliament* in the year 1628. and whether they or the *Doctor* are in the *Right* let the *Reader* judge; but they believed at the time when this matter came to be debated, (which is something above threescore and ten years since) that all those *Towns* that sent *Burgessees* to *Parliament* and paid *Tenths*, when granted in *Parliament* were *Boroughs* although they had no *Market*, *Franchise*, or other *Liberty*, which should constitute them so. Now what hath the *Doctor* to object against this? Why, that in the latter end of the *Reign* of *Edward the First*, which is near four hundred years ago, there were, and yet are many *Towns*, that sent their *Representatives* to *Parliament*, which were not *Burghs*, but only *Towns* of *Ancient Demesnes*, and these (in the granting of *Taxes* especially) consulted and gave their consent with the *Citizens* and *Burgessees*, &c. and this he proves from that *Record* which is printed at large in his *Appendix*, as also by *Mr. Petyt* at the end of his *Rights of the Commons asserted*, and which I have had occasion to mention more than once in this present *Discourse*; the Substance of which is, that all those *Orders* of *Men* above mention'd, being assembled before the *King's Council*, and having receiv'd their *Demands* on behalf of the *King*, after their retiring and deliberating apart, at last they all unanimously agreed, to grant the *King* an *Aid* for making his Son a *Knight*, and for the War against *Robert Bruce*; and the *Prelates*, *Earls*, *Barons*, and other *Great Men*, and also the *Knights* of *Shires*, unanimously granted to the *King* for themselves and whole *Community* of the *Kingdom* a *Thirtieth* part of all their *Temporal Moveable Goods*; the rest not being to my present purpose I omit.

Ib. p. 37.

But the next † *Paragraph* (since it more relates to the matter in hand) I shall give you at length, together with what follows.

Also the *Citizens* and *Burgessees* of *Cities* and *Burghs*, and others of the *King's Demesnes*, assembling together, and treating about the *Premises*, considering the *Burthens* incumbent upon the *King* as was before mention'd, unanimously granted unto Him for the *Causes* above-said, a *Twentieth* part of their *Moveable Goods*. And then he proceeds thus,

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Who, and what the *Ceteri*, the *Residue*, or *Others* of the *King's Demesnes* were, is plainly discover'd in another *Record* about the same matter.

It is to be remembred, that on the Morrow of Holy Trinity last past, the Prelates and other Great Men of the Kingdom, for themselves and the whole Community of the Kingdom, granted to the Lord the King, for themselves and the whole Community of the same Kingdom, a Thirteenth part of all their Temporal Goods, without Cities, Burghs, and the King's Demesnes. And the Citizens, Burgeses, and Tenants of the aforesaid Demesnes, granted a Twentieth part of their Goods, as well toward the Knighthood of Edward the King's Son, as towards the Defence of Scotland, against Robert Bruce and his Complices, the King's Enemies, and the form of the aforesaid Grant is more fully noted in the Memorials of Trinity-Term last past.

By this *Record* (continues the * Doctor) it is very plain, that the *Prelates, Earls, Barons, and Knights of Shires* consulted together, and treated about their *Thirtieth* part, which they granted for themselves and whole Community of the Kingdom; as also that the *Citizens, Burgeses, and Tenants* of the *King's Demesnes*, treated and consulted by themselves apart, and granted a *Twentieth* part of their Goods, which was a *Third* part more than the *Lords and Knights* gave; so that the *Tenants* of the *King's Demesnes*, were now Members of Parliament.

* Ibid.

I desire the Reader would observe from what hath been said, whether the Doctor does prove from these *Records*, that which he hath so positively asserted, that none but the *King's Demesne, Cities, and Boroughs*, were then summon'd to Parliament, and granted this *Tax* of a *Twentieth* part of their Moveable Goods; for tho' these two *Records* themselves plainly distinguish the *Citizens and Burgeses* of the *Cities and Burghs* from the *Tenants* of the *King's Demesnes*, as Persons holding by two several sorts of *Tenures*, yet the Doctor doth here confound them, and make them all one, and that by the word *Ceteri*, must be understood the *Residue*, or *Others* of the *King's Demesnes*, as if it related to all the *Cities and Boroughs* being so also; whereas if these words were to be understood in that Sense only, the words following, *viz. and Tenants of Antient Demesnes* would be impertinent, if all of them had been so alike: But in this last *Record* it is put separately, *the Cities, Boroughs, and the King's Demesnes*, which are plainly enough distinguished from the former, and the Doctor might with much better colour assert, that the *Citizens and Burgeses* were all one sort of Men, than that they were all One with the *Tenants* of *Antient Demesne*, only, because these three last sorts of People not being then part of the Community or Body of the County, were wont in those times to sit together, and to agree what *Aid* they would grant the King. But I need not go farther, than the very next *Record* which the Doctor hath cited in this very Page, which is, the *King's Commission, and Assignment* of Commissioners to *levy, and collect* the *Twentieth, and Fifteenth* granted in the first of *Edward the Second*, which proves the same thing, though not in the Sense, the Doctor would put upon it, and I shall here give you his Translation of this *Record*.

* The

* Rot. Pat. 1.
Ed. II. p. 1.
M. 7.

* The King to the Knights, Freemen, and whole *Community* of the County of *Middlesex*, as well within Liberties as without, *Greeting*. 'Whereas the Earls, Barons, Knights and Freemen, and the *Communities* of Counties of our Kingdom, have courteously and gratefully granted to Us a *Twentieth* part of their Moveable Goods, and the *Citizens*, *Burgesses*, and *Communities* of *Cities* and *Burghs* of the same Kingdom, and also the *Tenants* of the *Antient Demesne* of our Crown, a *Fifteenth* part of their Moveable Goods, &c. Now I will leave it to the Impartial Reader to determine, whether any thing can more express the different Orders and Degrees of Men, than these words, the *Communities* of *Counties*, and also those that follow in *Latin*, *nec non Tenentes de Antiquis Dominicis Coronæ Nostræ*.

† Ib. p. 38.

And indeed the † Doctor himself in the leaf following grants, that these *Tenants* in *Antient Demesnes* did not continue long to grant thus separately; for about the middle of the Reign of this present King *Edward the Second*, or in the beginning of his Successors, he says, that the *Tenants* in *Antient Demesnes* are no longer mention'd in the *Commissions* of the *Taxors* and *Collectors*, as *Grantors* of those *Taxes*: So that all the Doctor hath here proved, is, what no body denies, that hath perused these *Records*, that the *Tenants* of the *King's Towns* and *Mannors* in *Antient Demesne*, then granted their share of all *Taxes* that were laid upon Moveable Goods, and that in *Parliament*, after the same rate and manner as the *Cities* and *Boroughs*, until such time as those *Tenants* came to give all other *Taxes* with the *Body* of the County, and then all Distinction between them and the rest of the *Inhabitants* of the *Shires* being taken away, they came to have *Votes* in the Choice of the *Knights* of *Shires*, and to pay their share towards their *Expences*, as they do at this day.

All that remains doubtful in the above cited *Record* of the 34th of *Edward the First*, is, in what manner these *Tenants* in *Antient Demesne* were summon'd by the *Sheriffs*, since there is no particular Clause to be found in the *Writs*, for their being summon'd to this or any other *Parliament*; none but *Citizens* and *Burgesses* being therein mention'd. And in this very *Record* it self, it is express'd, that two *Knights* of every *County*, and of every *City* two *Citizens*, and of every *Burgh* two *Burgesses*, chosen by the *Communities* of the said *Cities* and *Boroughs*, came before the *King's Council* to Ordain and Consent in like manner, &c. which is the only clause, that can any ways insinuate, that these *Tenants* in *Antient Demesne* were the *Citizens* and *Burgesses* above mention'd; but these words cannot be taken in that Sense, and it is indeed more than what the Doctor himself asserts, who says in the leaf foregoing, that there were antiently many *Towns* that sent their Representatives to *Parliament*, which were not *Burghs*, but only *Towns* of *Antient Demesnes*, and the *Record* it self only mentions *Cities*, and *Boroughs*, and not such small *Towns* as could be neither the one nor the other.

Not that I am of the Doctors mind neither, that every of these *Towns* in *Antient Demesne* sent One or two *Burgesses* to *Parliament*, for that had been to have given them as Great a Priviledge as the *Cities* and *Boroughs* themselves; and therefore I rather incline to believe,

believe. that all the Major part of the Inhabitants of these Towns in *Antient Demesne*, met together, and *elected* certain Persons of their own Order or Body to represent them, as long as they continued to give *Taxes* separately from the *Body* of the County; but of these things which are so obscured by length of time, I shall not be positive; only thus much appears from a *Record* of the Eighth of *Edward the Third*, which is also cited by the Doctor as follows.

‘ Upon Complaint of the *Barons, Knights, Citizens, and Burgeses* Id. p. 39.
 ‘ to the King in *Parliament*, that the *Taxors* and *Collectors* for *Bribes*
 ‘ spared some Men, and by *Colour* of their *Office* extorted from O-
 ‘ thers more than they ought to pay, and apply’d it to their own
 ‘ use; with request to Him, that they might pay toward the *Fif-*
 ‘ *teenth* and *Tenth* then granted, as they had done to the last *Tenth*
 ‘ and *Fifteenth*, there were sent *Commissioners* into every County in
 ‘ *England*, to agree and compound with the *Inhabitants* of every *Town*
 ‘ that was to pay a *Fifteenth*; and also with the *Communities* of *Cities*
 ‘ and *Burghs*, and Men of the *Towns* of *Antient Demesnes*, which paid
 ‘ a *Tenth*, *ad tractandum & concordandum cum* *Communitatibus*
Civitatum & Burgorum, ac Hominibus Villarum, & Dominicorum
antiquorum, qui hujusmodi Decimam & Quintam-Decimam solvere
tenentur, for the Sums they were to pay; which Sum was fixed up-
 on the particular *Towns, Cities* and *Burghs* for the future, and col-
 lected and rated most commonly, by the *Inhabitants* (I suppose) a-
 mongst themselves; the chief *Collectors* and *Taxors* in every Coun-
 ty were reserved to be *Taxed* by the *Treasurer* and *Barons* of the
Exchequer as before.

From whence we may make several useful Observations; 1. That though only the *Barons, Knights, Citizens, and Burgeses* made this Complaint in Parliament concerning the Corruption of these *Taxors* and *Collectors*, and that thereupon *Commissioners* were sent into every County of *England*, as above said; yet you may take notice that they were to treat with the *Community* or *Commons* of *Cities* and *Boroughs*, and with the Men of *Towns* and other Places of *Antient Demesnes* by themselves, as Persons wholly Distinct from the former; but whether these Tenants in *Antient Demesne* had any *Representatives* in the last Parliament above-mention’d, is not here expressed; however it is most likely they had, though after this time the Doctor says, and perhaps truly enough, that he cannot find them any more mention’d for the reason he hath already given; and we may also from this *Record* observe, the occasion and manner of first settling *Fifteenths* and *Tenths*, which way of *Taxing* was long in use in this Kingdom. But since the Doctor in his next Paragraph hath given us a greater Light into this matter, I will here set down his own words.

* I could never find the *Roll*, or any *Book* of this *Establishment* * Ibid.
 of this Eighth year of King *Edward the Third*, but in a † *Book* of † With the
Fifteenths and *Tenths* in the Third year of King *Henry the Fifth*, *King’s Re-*
 where the *Particular Sums* of every ordinary *Town*, and of every *the Exchequer*
City, Burgh, and || Town of *Antient Demesnes* in all Counties of || Every *Town*
England are noted, there is often Reference to the particulars of such there that
 a *Roll* in that Eighth year. After which time, when *Tenths* and paid a *Tenth*,
 and was nei-
 Fif-

ther City, nor
Burgh, was
Antient De-
mesne.

Fifteenths were reduced to a certainty, the Parliament for the most part granted; Taxes of those *Denominations*, as half a Tenth and Fifteenth, a whole Tenth and Fifteenth, two Tenths, and two Fifteenths, &c. according to the *Exigency* of the Kings Affairs.

I think there cannot be a plainer Distinction made between the *Cities* and *Boroughs*, and *Towns* of *Antient Demesne*, than the Doctor hath here given us in this Paragraph, and in the Marginal Note upon it, which I do not at all gain-say, since it plainly confutes what he at first asserted, viz. that all *Cities* and *Boroughs* of England before the 23d of Edward the Third, were Taxed, as the King's Antient Demesnes; and yet notwithstanding this plain Difference, he would (if he could) again confound the *Demesne-Cities* and *Boroughs*, with those that were never so at all; and therefore I shall here transcribe what he says farther concerning them as follows.

* Ib. p. 39.

* There hath been often mention made of the Kings *Demesne-Cities* and *Burghs*, as well as of his Tenants of Antient Demesne, in this Treatise. And it will much tend to the understanding of it, and of Antient Records and History where they are mention'd, to know what they were. And if they be duly consider'd, they are not much unlike one another, having their Names from the same thing, that is, from holding of the King by *Fee-farm*. For the *Towns* and *Lands* which are found in *Domesday-Books* under the Title of *Terra Regis*, were then and afterwards kept in his Hands, and managed by *Præpositi* or *Bayliffs*, (as were most of the *Towns* and *Lands* of *Bishops*, *Abbots*, *Priors*, *Earls*, *Barons*, and Other *Great Men*) and called his, and their Demesnes; which in process of time were let to farm to Tenants for a considerable part of their true value, an half part, third or fourth at least; and this Rent was called a *Fee-farm-Rent*; the Tenants esteeming what these Estates were worth above the Rent, or in respect of the Tenure to be to them, *ut*, or *tanquam de feodo*, as if they were holden in Fee, paying their Rent and Tallages.

† Ib. p. 40.

† Of the same Condition were *Cities* and *Burghs*, (as the Doctor would have it) at first kept in the King's Hands, and the *Customs* and *Profits* that arose from Trade, gathered by his *Bayliffs* and *Officers*, which afterward were let out in *Fee-farm* to the *Communities* of *Cities* and *Burghs*, which commonly were made such by the same *Charters*, by which the *Customs* in kind, or the true Value of them, as then collected, were changed into *Fee-farm-Rents*, and the King's *Officers* or Others in lieu of them, were made *Officers* as well to the *Cities* and *Burghs*, as to Himself. This is clearly apparent from the Narrative of *Great-Yarmouth* in the Appendix, N. 1. A. N. 1. B. and from the Charter N. 2. as also from the Second Charter of *Donewic*, N. 3. B. as well as from Others, and may further be confirmed by the following Record, of which I shall only give you the Doctor's English Translation.

Adventus Vi-
cecom. An. 5.
Ed. III. fini-
ente, incipiente
6. in Crastino
S. Mich. apud
Remem. The-
saurar. in
Seaccario.

The *Amerciaments* of the *Men* and *Burgesses*, Farmers of divers *Towns*, holden of the King in *Fee-farm*, who came not to the *Exchequer* to make their *Proffer* (i. e. the beginning of their Accounts) on the morrow of St. Michael, in the year of the Reign of King Edward the Third, after the Conquest, the Sixth beginning, the Fifth ending.

Nor-

Northumberland. { Of the Men of the Town of *Bamburgh*, because they came not to the *Exchequer* to make their *Proffer* at the day aforesaid. } *Five Marks.*

Bedford. { Of the Men of the Town of *Bedford*, for the same, } *Five Marks.*

Essex. { Of the Men of the Town of *Colchester*, for the same, } *Five Marks.*

Dorset. { Of the Men of the Town of *Bridport*, for the same, } *Five Marks.*

I have given you the Doctor's Quotation at large, that you may the better observe the difference between those *Towns* and *Mannors* that were the King's *Antient Demesnes*, and those *Cities* and *Boroughs* that were not so: And I desire no better Testimony to confute what he hath laid down, than the very *Record* he hath here cited. For though it be granted that the Kings *Antient Demesnes* were let out to Tenants at *Fee-farm Rents*, and upon payment of certain reasonable *Talliaiges* when the King pleas'd to impose them; yet it doth no where appear, that all the *Cities* and *Burghs* of *England* either then were, or ever had been the King's *Antient Demesnes*; and it happens too very unluckily for the Doctor's Opinion, that the Town of *Bamburgh* in *Northumberland*, never was a *Borough* that sent *Members* to *Parliament*, and it is now wholly ruin'd, and nothing left of it but the old Walls; and therefore the *Fee-farm-Rent* which the Men of that *Town* then pay'd the King, was for the Lands or Houses they held of Him, and could not be for any *Liberty* or *Priviledge* relating to Trade. Nor did the letting out the *Customs* and *Profits* that arose from Trade at a *Fee-farm-Rent* to the *Communities* of such *Cities* and *Boroughs* by *Charters*, thereby constitute them either *Cities* or *Boroughs*; for as to the *Cities*, it is plain by the *Priviledges* granted by the several *Charters* the Doctor hath cited in his *Appendix*, from p. 25 to the end, that they are in every one of them call'd *Cities*, and the *Grants* are made to them as such in the very beginning of their *Charters*; viz. the *Cities* of *London*, *Winchester*, *Lincoln*, *York* and *Norwich*, (which are all the Instances he hath given us) and the King therein calls the Inhabitants of them *Citizens*: and that they were *Communities* or *Corporations* before, still further appears, that in most of them there is mention made of their *Gilda Mercatoria*, (by which the Doctor himself understands their *Liberty* to trade as a *Society* or *Corporation*) as a thing then in being, to which only some New *Priviledges* are added. And though the Charter of * King *John* to the City of *York* begins with these words, *Sciatis Nos concessisse Civibus No-*

* Cart. 1 Jo-
han. p. 1. N. 75.
Ap. N. 21.

stris de Eboraco, Omnes Libertates & Leges, & Consuetudines suas, & nominatim Gildam suam Mercatoriam & Hanfas suas in Anglia & Normania, & Lestagia sua per totam Costam maris, queta, sicut ea unquam melius & liberius habuerunt tempore Regis Henrici Avipatris Nostri: Yet the word concessisse here signifies no more than a

Confirmation of their *Liberties* and *Customs*, and particularly their *Gilda Mercatoria*, since they were to enjoy it and all the rest, as well or better, than they had done in the time of his Grandfather King *Henry*; which had been to no manner of purpose, if those *Liberties* had never been enjoy'd before this *Charter*. And the like I may say to the *Boroughs* he mentions, *viz.* *Yarmouth* and *Dunwich*, both which in their *Respective Charters* (cited by the Doctor) whereby they were made *Free-Boroughs*, are call'd the *Boroughs* of *Yarmouth* and *Dunwich*, and the *Inhabitants* of them *Burgessees*; and I suppose as such, they might have sent *Members* to *Parliament* before the Grant of the *Liberties* contain'd in those *Charters*, which indeed made them *Free-Boroughs* or *Corporations*, as an addition to their former *Priviledges*. And though in that to *Yarmouth*, there is no mention of their *Gilda Mercatoria*, yet it is certain they had One granted either by King *John* or *Henry* the *Third*, albeit, their *Charters* are not recited in the Doctor's *Appendix*: but however thus much is mention'd, that *they had all the Liberties granted them of a Free-Borough*, of which certainly this of enjoying a *Gilda Mercatoria*, or *Trading Gild* must be One. Nor could they have had the *Customs* of the Port of *Yarmouth* granted to them at the *Fee-farm-Rent* there mention'd, had there not been a *Corporate Body* thereby erected, which was both to receive the *Duties* upon all Goods imported, and was also answerable for the *Rent* the King was to receive in *lieu* of them.

But that the Town of *Dunwich* had their *Mercatory-Gild*, and was a *Corporation* before King *John's Charter* (though it be thereby also expressly granted) appears by these words, *Concessimus etiam eis Hansam & Gildam-Mercatoriam, sicut habere consueverint, that is, We have granted them also their Trading-Society and Mercatory-Gild* * or *Company*, in the same manner as they were wont to enjoy them; and that this *Priviledge* of a *Trading-Company* or *Society*, was not confined to *Sea-Ports* alone, appears also by the *Charter* of King *Henry* the *Third* to *Wallingford*, which immediately follows in the same *Appendix*, whereby He Grants to his *Burgessees* of *Wallingford* for ever, all their *Liberties, Laws* and *Customs*, as well and as honourably as they held them in the time of King *Edward* the *Confessor*, and of his Great Grandfather King *William*, and of *William* his Son, and of his Grandfather King *Henry*, (to wit) the *Gilda-Mercatoria*, with all other their *Laws* and *Customs*: which is rather a *Confirmation* of their *Former Priviledges*, than a Grant of *New* ones.

* So the Doctor interprets those words in his Notes upon this Charter.

Now from all these *Charters*, it is plainly evident, that the Doctor did not consider the Sense of them, when he made use of them; or else he would not have so positively asserted, as he hath done, 'That in the Reign of King *Edward* the *Confessor*, as likewise afterward in the Reign of *William* the *Conqueror*, we find the *Burgessees* or *Tradesmen* in great Towns had in those times their *Patrons*, under whose protection they traded, and paid an Acknowledgment thereof; or else were in a more servile Condition, as being in *Dominio Regis, vel Aliorum*, altogether under the Power of the King, or other Lords. And it seems to me, that then they traded not, as being in any *Merchant-Gild, Society* and *Communit*y,

nity, but meerly under the *Liberty* and *Protection* given them by their Lords and Patrons, who probably might have power from the *King* to licence such a number in this or that Port or Trading-Town: Whereas it is evident, that long before his pretended *Conquest*, the *Great Cities* and several considerable *Borough-Towns* of *England* were Politick Bodies or Corporations.

So that it appears from what the Doctor himself hath cited, that far the greatest part of the *Cities* and *Boroughs* of *England* were never the *King's Antient Demesnes*, nor were created *Cities* or *Free-Boroughs* by his *Charters* since the *Conquest*.

And this the * Doctor himself in part acknowledges in the next Paragraph, as follows, ' Having seen what the *Civitates & Burgi Domini Regis*, the *King's Demesne Cities* and *Burghs* were, we shall next shew what, and how many of the present *Parliament-Burghs* were *Antient Demesnes*. And in doing this, I will follow the Direction of an *Antient Writ*, to the *Treasurer* and *Barons* of the *Exchequer* in the 48th of *Edward the Third*, when the Men of the *Town of Lindon* in the County of *Roteland*, complained to the *King*, that notwithstanding it was neither a *Burgh*, nor *Antient Demesne* of the *Crown*, yet it was taxed a *Tenth*, whereas they should have been taxed only a *Fifteenth*. In this Case the *King* Commands the *Treasurer* and *Barons* of the *Exchequer*, that if it did appear by his *Book* called *Domes-day*, or by other *Rolls* and *Memorials* of the *Exchequer*, or any other competent way, that it was neither *Burgh* nor *Antient Demesne*, they should accept a *Fifteenth*, and discharge them of the *Tenths*, &c. *Ibid. p. 41.

I do not desire more for my purpose, than what the Doctor here hath granted; for whereas he hath positively asserted, that *King Henry the Third*, and *Edward the First*, had before the 23d year of his *Reign* assailed *London*, and all the *Cities* and *Boroughs* of *England* at a *Sixth* or *Seventh* part of all their *Moveable Goods*, as they were *His Cities* and *Towns* in *Antient Demesne*, here he falls short of that General Assertion; for no body can deny, that many of the present *Parliament-Burghs* were *Antient Demesnes*; yet besides that, they were also such *Antient Boroughs*, as were accustomed to send *Members* to *Parliament*: And if they had enjoy'd that *Privilege* only as they were *Towns* in *Antient Demesne*, how come they to continue to send *Burgesses* to *Parliament* at this day, when all the *smaller Towns* that held in *Antient Demesne*, have long since left off sending any *Members* thither, and have been for *time beyond Memory* taxed with the *Body* of the County, as the Doctor himself acknowledges? but I am sensible that he has still a *Refuge* to fly to, which he does a few pages further, when he says, that all *Other Cities* and *Boroughs* that were not *Antient Demesne*, sent *Members* to *Parliament*, only as they had been made *Cities* and *Free-Boroughs* by the *Charter* of the *Kings* since the *Conquest*, or else of some other *Lords*; which Opinion I shall consider further by and by. In the mean while it is sufficient for our present purpose, that it appears by this *Record*, concerning the *Town of Lindon*, that it was to be tryed by *Domes-day-Book*, and other *Records* of the *Exchequer*, whether that Place was a *Borough*, or else one of the *King's Antient Demesnes*; which manifestly shews they were two different things.

* *Ib.* p. 41.

And in the next Paragraph, the * Doctor hath given us from *Domesday-Book* an Account, which of the present *Boroughs* were *Antient Demesne* at the time of that Survey, and which were not; for which I refer the Reader to the Book it self: only it does not make for the Doctor's Opinion, that the *three Other Towns* which he would have to be amerced five Marks a piece, for not making the *Proffers* in the *Exchequer*, viz. *Bedford*, *Colchester* and *Bridport*, are all omitted among the *Boroughs* that were then of *Antient Demesne*, and yet every one of these send *Burgesses* to *Parliament* at this day.

† P. 42

In the following † Page, the Doctor proceeds to give us an Account of the Original of such *Boroughs* as are not to be found in *Domesday-Book*, and shews, that at the time of that Survey, none of the now *Boroughs* of *Cornwall*, *Devonshire* and *Wiltshire* are entered as such, being only described as *Ordinary Towns*, some of which held of the King, and Others of other Lords; only *Exeter* is call'd a *Borough*, and described by it self. *Totnais* is call'd a *Borough*, under the Title of *Terra Judhael de Totnais*; and *Ochementone* (I suppose now *Okehampton*) a *Burgh* under the Title of *Baldwin* the Sheriff; no other Name (saith the Doctor) of the present *Burghs* to be found in this County in *Domesday-Book*, unless, as hath been noted before, those which are placed under the Title of *Terra Regis*.

|| *Ibid.* 43.

In *Wiltshire*, || He can find none, but those that were reckon'd under *Terra Regis*, the particular Names of which I need not set down; so that he can find no other Names of the present *Burghs* in the *Description* of *Wiltshire*, but such as were *Antient Demesnes*.

And so it is in other Shires and Counties; such especially as have now many *Burghs* in them, as *Somersetshire*, *Hampshire*, *Sussex*, *Lancashire* and *Yorkshire*; in every of these, there are now several real or reputed *Burghs*, whose Names are not to be found in the *Conqueror's Survey*.

* *Ibid.*

* And therefore we are next to shew, or at least make a probable Conjecture what the Original of many (if not all) our present *Burghs* was; which to me seems to have been only from *Charters*. We will begin with those of *Cornwall*, which are most obscure, and then Instance in some others.

Append. N. 3.
P. 15.

He first mentions the Town of *Helleston*, and refers us to King John's Charter in his *Appendix*, wherein He grants, that the Borough of *Helleston* shall be a *Free-Borough*, and that his *Burgesses* of the same Town shall have *Gilda Mercatoria*, a Trading Gild, and should be acquitted thro' his whole Realm of *Toll*, *Pontage*, *Passage*, *Stallage*, *Lestage*, &c. From which it appears, that this Town was a *Borough* before it was made a *Free-Borough*; only by the Grant of this *Trading-Gild*, they were now made a *Corporation* which they were not before, and had other *Priviledges* also granted them: not but the *Inhabitants* might buy and sell in their *Mercate* as they were a *Common Borough* (paying the King's Duties) before ever this Charter was granted, and that *Ordinary Boroughs* had *Mercates* before such *Charters* were made, appears by what the Doctor himself hath cited in the Page foregoing, from *Domesday-Book*,

con-

concerning the Borough of Ochementone. *Baldwinus Vicecomes Teneat Ochementone de Rege, ubi sedet Castellum, ibi quatuor Burghenses, & Mercatum valet IV. Solidos* (i. e.) Baldwin, the Sheriff holds Ochementone of the King, where there is a Castle, and Four Burghesses, and a Mercate that yields four Shillings, that is, so much Toll by the year.

The Doctor's next Instance, is, the Town of Truro, or Truru, which was some time the possession of *Richard de Lucy*, a Person of great Note in the Reigns of King Stephen and Henry the Second; in the Eighth of whose Reign, he was made Justice of England. From him it came to *Reginald Fitz-Roy*, who was one of the Illegitimate Sons of King Henry the First, and was created Earl of Cornwall by King Stephen, in the Fifth of his Reign, and died in the 21st of Henry the Second. He by his Charter granted to his Free-Burghesses of Trineren, that they should have all their Free Customs, and such as were used in Cities, and the same in all things which they had in the time of Richard de Lucy, (that is to say) Sac. Soc. Tol: Them, and Infrangenetheuf, and granted them, that they should not plead, or be prosecuted in Hundred or County Courts, nor for any Summons should go any where to any Law-Business without the Town of Trineren, &c. From which it is evident, that this Town of Trineren or Truro was a Free-Borough, before the Grant of this Charter, and might have been so (as far as I know) before the Conquest, so that the rest of the Priviledges there mention'd, that were added over and above, did not make it a Free-Borough.

I have been the larger in transcribing this, because it may serve for a Pattern for all other Boroughs of the like sort; and it gives us a great deal of Light, what it was that then distinguished a Free-Borough from another. I have no more to add concerning it, only that the same Charter was also confirm'd by King Henry the Second; as were both these by another of *Inspeximus* by * Edward the First.

* Chart.
13 Ed. I.
M. 61.

The † Doctor's next Instance, is, a certain Charter granted by Richard Earl of Cornwall, Brother to King Henry the Third, whereby He made Dunheved or Lanceston a Free-Burgh, and amongst other Liberties granted to the Burghesses to choose their own Bailiffs, who were to answer the Farm of the Burgh, which was to Himself an Hundred Shillings to the Priory of St. Stephen, in Lanceston Sixty five Shillings and ten Pence, and to the Lepers of St. Leonard of Lanceston, an Hundred Shillings of his Alms. By which, and also by their having leave to erect a Gildhall in the same Borough, it plainly appears, that by this Charter the Town of Lanceston was made a Corporation. The rest of the Charters of the said Earl Richard, to make Lifcard a Free-Borough, and the like to Bodmin and Lestwithiel, where by those Places being made Free-Boroughs, do plainly shew, that each of them had granted them Gilda-Mercatoria, or a Trading-Gild; by all which, and by those that follow in the following Pages, it is Evident, that where-ever there was a Free-Borough, there was also erected a Community or Corporation for the governing and carrying on the Trade within the said Free-Boroughs.

† Ib. p. 44.

And

Idem p. 46.

And the Doctor hath here given only one Example of a *Town*, that was only made a *Borough*, which is *Preston* in *Lancashire*, and was made so by King *Henry the Second*; yet had New Liberties granted by King *John*, when Earl of *Moreton* and *Lancaster*, confirm'd by King *Henry the Third*, and *Edward the Third*. And by this last *Charter* it appears, that they had the same Priviledges granted them, which had been granted to the *Burgesses* of *Bristol*, by which it seems they were also made a *Free-Borough* or *Town-Corporate*.

I pass by the rest of the *Charters* he has there cited, which are of the same kind; only in *Confirmation* of what I have now said, shall transcribe the Doctor's *Observation* upon this Head.

Idem 47.

From these *Instances* we may make a more than probable *Conjecture*, that all *Free-Burghs*, though now never so obscure, had their *beginnings* from *Charter*, which was granted as well for the *Advantage* of the *King*, *Earl*, or Other Great Man, *Lord* of the *Burgh*, as for the profit of the *Burgesses* themselves. For a *Free-Burgh*, in the true sense of the word, was only a *Town* of *Free-Trading* with a *Merchant-Gild*, or *Community*, without paying *Toll*, *Pontage*, *Passage*, *Stallage*, &c. and being free from certain *Fines* or *Mulcts*, from *Suit* to *Hundred* and *County-Courts*, or being prosecuted or *Answering* there, or any where else, but within their own *Burgh*, except in *Pleas* of the *Crown*: With other *Priviledges*, *Liberties* and *Customs*, according to the *Tenor* of their particular *Grants* and *Charters*. And a *Free Burgess* was no other, than a Man that exercised *Free Trade*, according to the *Liberties* and *Priviledges* of his *Burgh*, whether he resided in it, or whether he had *Liberty* to live and trade other where.

With which *Conclusion* of the Doctor's, I have no great occasion to find fault, since he grants enough for my purpose, that a *Free-Borough* was only a *Borough* of *Free-Trading* with a *Merchant-Gild*, *Community*, or *Corporation*, and was exempt from the *foresaid Duties*, and from certain *Fines* or *Mulcts*, and from *Suit* to *Hundred*, and *County-Courts*, or being prosecuted or *Answering* there, or any where else, but within their own *Burgh*, except in *Pleas* of the *Crown*. From all which it plainly appears, that every *Free-Borough* was a *Town-Corporate*, and it will also follow, that being by their *Charters* exempted from *Suit* to the *Hundred* and *County-Courts*, they could have nothing to do in the choice of *Knights* of *Shires*, and consequently could not be taxed with the *Community* or *Body* of the *County*; and from thence it must naturally follow, that if there were nothing else in it but this, these *Free-Boroughs* required to have some *Representatives* in *Parliament* to Grant *Taxes* for them, and to *Consent* to such *Laws* as should oblige the whole *Nation*; since the *Cities*, *Free-Boroughs*, and other *Ordinary Boroughs* of *England* were too Great and Opulent a *Body* of Men to be *Taxed* or *Talliated* either by the *King*, or their own *Particular Lords* *Spiritual* or *Temporal*, towards the publick *Occasions* of the *King* and *Kingdom*, without their own *Consents*. Therefore since these *Free-Boroughs* were many of them created before the *Norman Conquest*, as divers Others of them were afterwards, it was necessary that even in the times of the *English-Saxon Kings*, or at least as soon

soon as the Rigid and Arbitrary Government of King *William the First*, and his three *Succeffors* began to abate, that they should have their *Representatives* in *Parliament* for the ends abovementioned.

And we find about the same time, that the *Royal-Boroughs* of *Scotland*, and the *Cities* and Great *Trading-Towns* of *France* sent their *Burgesses* or *Deputies* to their Great *Councils* or *Parliaments*, many years before the Reign of *Edward the First*, when the Doctor will allow them to have been first *summon'd* to our like *Assemblies* in *England*. But since he endeavours to put off this necessary Consequence, by supposing that before their *Appearance* in *Parliament*, they were liable to be *Taxed* or *Talliated* at the pleasure of the *King*, or some other *Immediate Lord* that held under Him; I shall in the next place consider what the Doctor hath further advanced upon that Head.

* Upon Account of these *Liberties*, says the Doctor, the *Prince*, * *Ib. p. 47.* or *Lord* of the *Burgh*, received *Toll* and *Customs* for the *Goods* bought and sold, or in process of time a *Fee-Farm-Rent* or *Annual Composition* in a stated Sum, always less than the true value, in lieu of them. And a reasonable *Talliage* or *Aid*, when for his necessity He had reason to impose it. And that *Talliage* was due and paid by *Citizens* and *Burgesses* to our Antient *Kings*, only in Consideration of their *Liberty* of *Buying*, *Selling* and *Trading*, and the *Liberties* they had granted them to that purpose; and so to do will be clearly evinced by what follows.

† In the Eleventh of *Henry the Third*, *New-Sarum* was made a *City* by the King's Letters Patents, and given to the then *Bishop*, his *Succeffors* and *Canons* there, and their *Succeffors*, as their proper *Demesne*, which Clause is thus translated. We further grant to the said *Bishop* and his *Succeffors*, that for the necessity of himself or his *Church*, he might take a reasonable *Talliage* or *Aid* of his *Citizens*, when the *King* or his *Heirs* made a reasonable *Talliage* in his *Demesnes*. *Ibid.*
† Ryley's *Placit. Parliamentar.* f. 271.

And for the proof of this the || Doctor further cites from the || *Ibid. f. 273.* same *Record*, that in the 33d year of *Edward the First*, the *Bishop* of *Salisbury* requiring an *Aid* or *Talliage* of the *Citizens* of *New-Sarum*, according to the *Grant* of *Henry the Third*, the *Citizens* refused payment; but upon application of the *Bishop* to the *King*, He granted his *Precept* to the *Sheriff* of *Wilshire*, to *summon* by two *Legal Men*, the *Mayor* and *Community*, (not all the *Burgesses*, but the governing part) of *New-Sarum*, to appear before Him and his *Council* at *Westminster*, to shew Cause why they ought not to be *Talliated*, according to the *Charter* and *Grant* aforesaid.

After which follows a long Account of the *Pleading* and *Process* between the *Bishop* and the *Citizens* of *New-Sarum*; wherein after hearing the *Reasons* and *Pleadings* on both sides, the *King* gave this Sentence, that the *Citizens* should be for that time *Talliated*, for the Profit they had received by their *Liberties* from the time of the first *Grant* of their *Charter*, until then. And afterward choose whether they would use their *Liberties*, and be *Talliated* according to their *Charter* for the future, or renounce them, and not be *Talliated*: whereupon the *Citizens* did choose to renounce their *Liberties*;

Liberties, and a few days after *surrender'd* them to the King, by the *Hands* of their *Mayor*.

The Issue of this was, that after the said *Renunciation*, the *Citizens* being reconcil'd to their *Bishop*, he and they joyn'd in a *Petition* to the King, wherein reciting the former *Charter* from King *Henry*, and their late *Renunciation* of the *Liberties* therein granted, they humbly requested to have them *regranted* to them, on Condition to *submit* to pay *Talliage* by the *Bishop*, in the same manner as was in the former *Grant*; upon which the *King* gave them a *New Charter*, upon the same Conditions as his *Father* had granted them before.

Ibid. p. 49.

From which *Process* and *Judgment*, the Doctor draws the following Observation, *viz.* that the *Emolument* and *Profit* mention'd in this *Judgment* and *Charter*, did arise from *Buying*, *Selling*, and *Trading*; and the *Liberties* (by Reason whereof the *Citizens* were *Talliated*) there spoken of, were granted for the *Furtherance* and *Incouragement* of them, which all *Free-Citizens* and *Free-Burgessees* enjoy'd as *Members* of a *Free-City* or *Burgh*. And 'tis evident they were called *Free-Cities* (or more frequently) *Free-Burghs*, and the *Members* thereof *Free-Citizens* and *Free-Burgessees* (almost in all *Charters*) from these *Liberties* and *Free-trading* only, notwithstanding they were liable to reasonable *Talliage* imposed by the King, when his necessity required it; and from their paying a *Fee-Farm-Rent*, and being *obnoxious* to the King's *Talliage*, either express'd, or implied in the *Charters*, by the *Profit* received, most of the *Cities* or *Burghs* in *England* were called *Civitates & Burgi Domini Regis*, as his *Demefne-Lands*, were called *Terræ Regis Dominicæ*, and the *Tenants* of them *Tenentes Regis Domini*, for the same Reason, and for others as before hath been said.

I will not deny, but that much of what the Doctor here says is true, concerning *Free-Cities* or *Free-Boroughs*, when they had such *Priviledges* granted them as he mentions; but I suppose he could not deny (if he were now alive) that those *Priviledges* he mentions were not *Essential* to a *City* or *Borough*; for no doubt but the *City* of *New-Sarum* would have continued to have sent *Members* to *Parliament*, as it had already done in this King's Reign, notwithstanding their *Surrender* of their *Priviledges* above-mention'd into the King's Hands; and so likewise those *Free-Boroughs*, if they had been *Boroughs* before (as most of them were) would have had still a Right to send *Burgessees* to *Parliament*, notwithstanding the *Priviledge* of a *Gilda Mercatoria*, with those other *Liberties* granted by those *Charters*, had that never been granted them at all; or that the King had seized them into his own Hands as *forfeited*: since they were only for the carrying on of their *Trade* to Greater Advantage, but were not absolutely necessary to their being a *City* or *Burgh*. And if those that held of the King were liable to be *Talliated* by Him, yet it was only in respect of those *Liberties* and *Priviledges* they thereby enjoy'd; and in consideration of which, as the Doctor allows, the King or any other *Inferior Lord* had a *Power* to *Talliate* them, when the King *Talliated* his *Demefnes*; and these being once *surrender'd* or *forfeited*, the King or the *Lord's Right* to *Talliate* them ought to have ceased; all which appears by this *Judgment*

ment between the *Bishop* and the *Citizens* of *New-Sarum*: And tho' the King might *Talliate* such *Free-Cities* and *Boroughs*, yet it was not to be exercised wantonly, and upon every slight occasion, but only when the necessities of the Kingdom requir'd it; and when it was exercised otherwise, it was looked upon as a Grievance.

I do not doubt, but King *Edward* the *First*, going about to renew this *Custom*, in the 33d year of his Reign, it proved the Cause of that famous Statute *de Tallagio non Concedendo*, which was made the year following, since it is very probable, that the *Cities* and *Boroughs* of *Antient Demefne* found it to lie very heavy upon them to be double-Taxed in one and the same year, first by the King's *Prerogative*, and then by their *Representatives* in *Parliament*.

But as for such *Talliaiges* as were paid to the *Earls* of *Cornwall*, and *Dukes* of *Lancaster*, and to the *Bishop* of *Salisbury*, and other *Temporal Lords*, as in the *Record* last cited, I shall make some Observations upon what the *Doctor* hath concluded from those *Charters*.

First, it appears from those granted by the *Earls* of *Cornwall*, that they reserved to themselves a *Power* of *Talliating* such *Towns* or *Boroughs*, as they thereby created *Free-Boroughs*, but then this was only in respect of the *Trading Priviledges*, and other *Liberties* which were thereby conferr'd, and not as they were a *Borough*; for I think I may truly affirm, that the *Greater part* of those *Towns* that now send *Burgeses* to *Parliament*, were never in that County made *Free-Boroughs* by *Charter*, nor had any *Corporations* erected in them, and I think these are altogether as *Antient*, if not more *Antient*, than the *Free-Boroughs*, since these can only claim that *Priviledge* by *Charter*, whereas the others do it by *Prescription*; though by this *Prescription* I would not be so understood, as if that *Priviledge* did not at first arise either by *Grant* or *Charter* of some of the *English-Saxon Kings*, or else of some others since the *Conquest*: But those *Charters* being long since lost, and not to be found upon *Record*, and they having also sent *Burgeses* to *Parliament* time beyond *Memory*, have now nothing to shew but *Prescription* for such their *Liberty*.

And of this *Barnstable* in *Devonshire* may serve for an evident Example, which having lost a *Charter* granted them by King *Athelstan*, * petition'd King *Edward* the *Third*, and his *Council* in *Parliament* in the *Seventeenth* year of his Reign, wherein the said Town sets forth, that they had been a *Free-Borough*, à tempore cujus contrarii *Memoria non existit*; and as such had enjoy'd divers *Liberties*, and *Free-Customs* by a *Charter* of King *Athelstan*, and this among others, quod ad singula *Parliamenta Nostra*, & dictorum *Antecessorum Nostorum* Duos *Burgeses* pro *Communitate ejusdem Bùrgi mittere solebant*; and therefore that *Charter* being lost, they desired a *Confirmation* of it from the King, who thereupon † directed a *Writ* of *Enquiry* to several *Gentlemen*, and *Others* therein mention'd, to examine whether the said *Burgeses* had enjoy'd all those *Liberties* so granted by the said *Charter* of King *Athelstan*, or not.

And by the || Return of this *Commission*, it appears, first, that there were *Free-Boroughs* in *England* before the *Conquest*, which the *Doctor* will not allow of. Secondly, that they sent two *Burgeses* to

Vid. Bundel.
of escheats
in the Town
er.

† Ibid.

|| Rot. Pat. 17.
Ed. III. part.
1. M. 2. dorf.

all *Parliaments* of the King and his Progenitors, which is a *Claim* by *Prescription*, though their *Charter* were *lost*. And *Lastly*, that the *King* and his *Council* in *Parliament*, allow'd the matter of their *Claim* to be true, or else they would not have thought it worth their while to have issued out a *Second Commission* to enquire into the truth of it, and to make their report to the *King* and his said *Council*.

But to add something more concerning the *Right* which the *Earls* and *Lords* of those *Free-Boroughs* reserved to themselves of *Talli-ating* them in the manner aforesaid, this was only as they had the *Dominion* of those *Earldoms* granted them by the *King* as *Count Palatines*; which may appear by the *Grants* of the *Earls* of *Cornwall* abovemention'd, in some of whose *Charters* they tie themselves and their *Heirs* from *Talli-ating* the said *Boroughs*, when the *King* *Talli-ates* his *Boroughs* throughout *England*, and in others of those *Charters* there is no mention of any *Right* reserved to *Talliate* them at all: in which Case I do suppose they were *discharged* from having any such *Tax* laid upon them, as is pretty plain by this Case of the *Bishop* of *Salisbury* above-mention'd; where he founds his *Claim* of *Talli-ating* the *City* of *New-Sarum*, not a *Town* built by his *Predecessors*, and holding their *Houses* within the said *City* of him, but purely from that *Clause* inserted in the *King's Charter*, wherein that *Power* is particularly reserved, and that the *Citizens* had themselves agreed to it. And yet the *Bishop* had been so favourable to them in the Exercise of this *Power*, that from the *Eleventh* of *Henry the Third*, when *New-Sarum* was made a *City* by the *King's Letter's-Patents*, to the *three and thirtieth* of *Edward the First*, when the *Bishop* first *Talliated* them, it was above *Threescore* years; during which time, tho' the present *King* and his *Father* had frequently *Talliated* their *Demefnes*, yet they had passed hitherto without any such *Payment*.

To conclude, I shall now leave it to the *Reader's Judgment* to *Determine*, whether most of the *Cities* and *Boroughs* of *England* were the *King's Cities* and *Boroughs*, in the same sense and manner as his *Demefne-Lands* were called *Terræ Regis Dominicæ*, as the *Doctor* hath asserted. For it plainly appears by what he hath transcribed from *Domesday-Book*, as also from the *Charters* he hath cited of the *King's* of *England*, and *Earls* of *Cornwall*, that not a *Third part* of the *Boroughs* they made, were the *King's Antient Demefnes*, at the time of the *Conquest*, if any will give themselves the leisure to examine the *Doctor's List* of those *Boroughs* in this *Treatise* upon which I animadvert. And every one that understands any thing of the *Law* must needs know, that no *Lands* are looked upon as part of the *Antient Demefne* of the *Crown*, which was not so, when that famous *Survey* of the *King's Towns* and *Demefnes* in *England* was recorded in *Domesday-Book*.

Having dispatched this Head, I shall now proceed to the rest of what the *Doctor* hath there deliver'd concerning the *Right* of *Electing* and *Returning Citizens* and *Burgesses* to *Parliament*, where he says as follows: * I shall conclude this *Treatise* with the *Answers* to these two *Questions*.

* Ibid. p. 51.

‘ *First*, who named them, and by whose *Direction* and *Appointment* it was, that such, or such *Burghs* chose, and sent *Burgesses* or *Members* to *Parliament*, and no others?

‘ *Secondly*, who then were, or ought to be *Electors*, in *Real*, or *Reputed Burghs*?

‘ To the *First*, it was left to the *Sheriff* of each *County*, to *Name* and *Direct* * which were *Burghs*, and which were not, by those *Inde-* * Id. p. 52.
‘ *finite* and *General* words in the *Writ*. *De Qualibet Civitate Duos Cives & de quolibet Burgo Duos Burgenses, &c. eligi facias, &c. i. e.*
‘ cause to be *chosen* two *Citizens* of every *City*, and two *Burgesses* of every *Burgh*.

In answer to this, I must allow the *Sheriff* of each *County* to *Name* and *Direct* his *Precepts* to the *Antient Boroughs*; not that it ever was in his power to create *New ones*, nor had he a *Right* to exempt the *Old ones* from sending *Members* if they desired it, for he was to act only as a *Ministerial Officer*, and not as a *Judge*: and if he refused to send his *Precepts*, or to make *Returns* of the *Elections* of those *Cities* and *Boroughs*, he was liable to be complain’d of to the *King* and his *Council* in *Parliament*, as appears by the *Petition* of the *Town* of *St. Albans* already mention’d to *King Edward the Second*, against the *Sheriff* of *Hertfordshire*, for refusing to return the *Burgesses* they had *chosen*. We shall now examine the *Proofs* † he brings for it, as follows.

† Ibid.

‘ The first * *Returns* extant of *Knights, Citizens* and *Burgesses*, are * *Return.*
‘ in the twenty Sixth of *Edward the First*, and in that of *Wiltshire* *Brev. Parl.* 26.
‘ for that year *Annexed* to the *Writ*, there were returned two *Knights* *Ed. I. in Tur-*
‘ for the *County*, two *Citizens* for *New-Sarum*, two *Burgesses* for *Do-* *ri Lond. Wilt-*
‘ *nton*, two *Burgesses* for the *Devizes*, two for the *Burgh* of *Chip-* *shire.*
‘ *penham*, and two for *Malmesbury*, with their *Manucaptors*; and the
‘ *Writ* was sent to the *Constable* of *Merleberge* (that is the *Constable* of
‘ the *Castle* there) And to the *Bailiffs* of the *Liberty* of *Caln* and
‘ *Worthe*, who return’d no Answer. To the *City* of *New-Sarum*,
‘ and these six other *Burghs*, the *Sheriff* of this year made his *Pre-*
‘ cepts, and for them only made his *Returns*.

I cannot see by what the *Doctor* has here laid down, how the *Sheriff* was left to judge what *Towns* were *Boroughs*; for tho’ he had sent a *Precept* to the *Constable* of *Merleberge*, and the *Bailiffs* of *Caln* and *Worthe*, yet he could have no Answer, that is, they had neglected to cause any *Burgesses* to be *chosen*, and therefore the *Sheriff* could not do more than lay in his power, to make his *Return* of *Burgesses* for those *Places* from whence there had been no *Returns* made to him, or perhaps were out of his *Liberty* or *Bailiwick* to make any such *Returns* at all, they having the *Return* of all *Writs* within themselves. But what follows I confess is more material, when the *Doctor* proves from several *Returns* of *Sheriffs*, which are still upon *Record*, that in the *Counties* of *Wilts*, *Bucks*, *Glocester* and *Worcestershires*, from the *Twelfth* year of *Edward the Third*, to almost the end of his *Reign*, the *Sheriff* often took a *Liberty* to *Return* sometimes more, and sometimes fewer *Burgesses* for those *Counties*, and yet still they made the same *Returns*, *non sunt Plures Civitates, neque Burgi infra Ballivam meam*, that there were no more *Cities*, nor *Burghs* within his *Bailiwick*: That is, within

Ibid.

the *County*, notwithstanding all the *Towns* the Doctor there names, had been reputed ancient *Boroughs*, and as such had sometime or other sent *Burgesse*s to *Parliament*, for which he also cites several Records, and then proceeds thus.

Ibid. p. 54.

See Returns of these several Counties in Pryn's Parliamentary Register. Part 2.

‘ And so it was in *Yorkshire, Lincolnshire, Cornwall, Dorset, Devon, Somerset, Southampton, Surry, Sussex*, and most if not all *Counties* in *England*, where there were, at the time of the Returns, any *small, poor, inconsiderable Burghs*, and where the Sheriffs were more or less kind to them, they return’d or omitted them at Pleasure, and for all whatever I could find, notwithstanding all my Endeavours, without the direction of the King or his Council.

*Stat. at large, 5 Rich. 2 Cap. 4. p. 169.

‘ In the Fifth of *Richard the Second*, there was a Law made, * that if any Sheriff of the Realm should be from thence forth negligent in making his Returns of Writs of the Parliament, or that he should leave out of the said Returns any *Cities* or *Boroughs*, which be bound, and of old time were wont to come to the Parliament, he shall be punished in the manner as was accustomed to be done in the said Case in the said time past. But notwithstanding this Law, the Practice of the Sheriffs remained the same it was before, as will be proved by what shall in part next be said concerning the meaning and reason of these Returns.

As I cannot deny the matter of Fact, that the Sheriffs did often times neglect to return *Burgesse*s for divers of the meaner or poorer sort of *Boroughs*, when coming to *Parliaments* was found a great Charge to their respective *Towns*, and who on that Account were taxed as *Boroughs*, at a higher Rate than other *Towns* of the *County*; so I shall not deny, but that when ever the Sheriffs did this, it was looked upon as a fault which deserved punishment; and this the Doctor’s Friends must own from this Statute, which was made to prevent it, since by such a Practice the *House of Commons* was not only deprived of its compleat Number of *Members*, but the King was also defeated of his *Aid* or *Taxes* by the Sheriffs excusing those *Boroughs*, who were then wont to pay (as the Doctor observes) about a *Third part* more than the rest of the *Inhabitants* of the *County*.

But he says further, that notwithstanding this Statute of *Richard the Second*, the Practice of the Sheriffs continued still the same: suppose it did; pray, is it the less a fault, because it was not punish’d so often as it should have been? But since the Doctor here endeavours to give a plausible Reason to excuse the Sheriffs for acting thus, and why they were connived at, I shall from him transcribe the following Paragraphs.

Ibid p. 55.

‘ When the Sheriffs made their Returns, that there was not any, or more *Cities* and *Burghs* in such or such *Counties*, than for which they had returned *Burgesse*s, no Man can believe they were so ignorant, as not to know, there were other *Burghs*, or more than they had returned *Burgesse*s for, and therefore some other than the very literal meaning of those Words must be found out.

‘ And to my Apprehension, the reasons (which also shew the meaning) of these Returns in these words, *Non est aliqua Civitas vel aliquis Burgus*, or *non sunt plures Civitates vel Burgi*, (than what were return’d) in *Balliva mea*, was for that many times, there was no

able,

able, fit, Persons for that Service to be found in the other Burghs of the County, at the time of the Return, (the choice being always made in those days out of their own Body, and not of Foreigners or Country-Gentlemen) and Secondly, for that the Burghs were so poor, as they were not able to pay the Burgesſes their Wages or Expences.

This Assertion seems to be manifestly evinced by some other Returns made in different words, tho' of the same Sense and Import, in 21 Ed. 3. after the Burgesſes return'd for Exon, Barnstable, Plympton, Tavystock, Torkton, and Totnes, The Sheriff of Devonſhire cloſeth his Return with these words, *Non sunt plures Civitates vel Burgi in Balliva mea quæ retornari possunt*. There are not any more Cities or Burghs in my Bailiwick, which can be returned, thereby omitting all other Burghs in that County; by these Words it should seem, that either there were no Burgesſes fit or qualified for the Service of Parliament, in the other Burghs, or that they were so poor, as they could not bear the Expences of such as should serve for them; for the Sheriff denies not, that there were more Burghs in his County, but affirms they were such as could not be Returned, and if not for these, 'tis hard to imagine, for what other Reasons they were such.

In the Returns from Worcesterſhire in the 8th and 12th of Edward the Second, and 12th, and 14th of Edward the Third, the Sheriff ends them thus, after the Returns of Knights for the County, and Citizens for Worcester (which I give you in English) there is not any Burgh in my Bailiwick, from whence any Burgesſes can come to Parliament, for the Reasons without doubt above-mention'd, tho' Wyche (now Droitwich) had sent Burgesſes to Parliament, in 26, 28, 29, and 30 of Edward the First, and in 2 and 4 of Edward the Second, and in 28, 29 of Edward the First, they received their Expences as appears by the Writs, *de Expensis Militum, Civium & Burgenſum*, then directed to the Bailiffs of that Town, and are to be found in the Close-Rolls in those years.

In the two next Pages the Doctor gives us divers Precedents of the like Omissions, of the Returns of Boroughs in the Counties of Cornwall, Devon, Lancaster and Lincoln, wherein the Sheriffs after their Returns of some Boroughs there mention'd, omitting divers others that had formerly sent Members to Parliament, as Lancaster and Preston for example, for whom the Sheriffs made the like Returns as before, *Non sunt alii Burgi in Balliva mea*, the meaning of which Return, particularly for the two Towns last mention'd he supposes to be shew'd, in the 38th of Edward the Third, when the Sheriff of Lancashire after the Return of the Knights, gives the reason why Citizens and Burgesſes ought not, nor were wont to come, in these words, *that there were not any Citizens or Burghs within that County, from which any Citizens or Burgesſes ought, or were wont to come to the said Parliament, for, or by reason of their Inability or Poverty*. The like Return was made by the Sheriff of this County, in the 39th and 50th of Edward the Third. And the Returns of this County are closed after this manner, with some small variation in the Reigns of Edward the Third, Richard the Second, Henry the Fourth, Fifth, and Sixth, and Edward the Fourth, and

and no *Burgesſes* return'd for any *Town* or *Towns* in all that time, from the 33^d of *Edward the Third*, which was 124 years, and how much longer cannot well be known: And then the Doctor gives ſome *Preſidents* of theſe *Returns* in every *King's Reign*; from all which *Inſtances* and *Examples*, he makes this *General Obſervation*, viz.

Ibid. p. 59.

‘ By theſe few *Returns* and *Inſtances* of very many more which
 ‘ might have been produced, if needful, ’tis abundantly proved,
 ‘ that from the 23^d of *Edward the Firſt*, when the *firſt Writ*s were
 ‘ ſent forth for the choice of *Citizens* and *Burgesſes*, and alſo during
 ‘ the *Reigns* of *Edward the Second* and *Third*, *Richard the Second*,
 ‘ *Henry the Fourth*, *Fifth* and *Sixth*, and *Edward the Fourth*, it was
 ‘ left to the *Diſcretion* and *Judgment* of the *Sheriffs*, which *Burghs*
 ‘ were fit and able to ſend *Burgesſes*, and which not. And that if
 ‘ antient able *Burghs* became *Poor* and *Indigent*, and unable to pay the
 ‘ *Expences* of their *Burgesſes*, or had none fit to chuſe, it was a juſt
 ‘ Ground for the *Sheriff* to excuſe them, from the trouble and charge
 ‘ of *Electing*, and ſending *Burgesſes*, notwithstanding the *Statutes* of
 ‘ 5 *Richard*, 2 *C.* 4. 1 *Hen.* 5. *C.* 1. 8 *Hen.* 6. *C.* 7. 23 *Hen.* 6. *C.* 15.
 ‘ And alſo, That the plain *Negative Returns*, of *Non ſunt aliqui Ci-*
 ‘ *vitates vel Burgi in Balliva mea*, or *Non ſunt plures Civitates vel Bur-*
 ‘ *gi in Comitatu Prædicto*, &c. are to be explain’d by thoſe other *Re-*
 ‘ *turns*, of *Non ſunt aliquæ Civitates, vel aliqua Civitas, nec plures*
 ‘ *Burgi* (in this or that *County*) *unde Cives vel Burgenſes venire facere*
 ‘ *poſſum*, or *unde Cives & Burgenſes venire poſſunt, vel venire debent,*
 ‘ *vel venire ſolebant*, and other different *Expreſſions* before mentio-
 ‘ ned, *Propter debilitatem eorum & paupertatem*. Thoſe *Absolute Nega-*
 ‘ *tives* in *Terms* only, being equivalent in *Signification* to the other,
 ‘ and import no more, than, that thoſe *Burghs* the *Sheriffs* did not
 ‘ return, at ſuch times, were poor and inconsiderable, and that either
 ‘ they had not fit *Perſons* to ſend, or for their *Poverty* could not pay
 ‘ their *Wages*, or bear the *Expences* by Law due to them. And all
 ‘ this was done by *Virtue* of that *General Clauſe* in the *Writs*, *De qua-*
 ‘ *libet Civitate duos Cives, & de quolibet Burgo duos Burgenſes*, &c.
 ‘ For in the *Charters* of *Antient Burghs*, there was no *Clauſe* or *Grant*
 ‘ for the choice or ſending of *Burgesſes* to *Parliament*, nor have I ever
 ‘ ſeen or heard of any particular *Directions* from the *King* and *Coun-*
 ‘ *cil*, or others, to the *Sheriffs*, for the ſending their *Precepts* to this
 ‘ or that *Burgh* only, and not to others.

Now I have fairly tranſcribed the Doctor’s Opinion, and the Au-
 thorities he hath given us for it: I ſhall in the next place examine
 whether the Evidence He hath brought will Juſtify his Concluſion,
 that it was wholly left to the *Diſcretion* and *Judgment* of the *She-*
riffs, which *Burghs* were fit and able to ſend *Burgesſes*, and which
 not; and notwithstanding thoſe ſeveral *Statutes* which he himſelf has
 mention’d, that were made on purpoſe to prevent it. For beſides
 his fundamental Errour, that the *firſt Writ*s of *Summons* for the
 choice of *Citizens* and *Burgesſes*, were iſſued out in the 23^d of *Ed-*
ward the Firſt, (which I hope I have already confuted) I cannot
 ſee what *Right* the *Sheriff* of any *County* could claim to exerciſe
 ſo arbitrary a *Juriſdiction*: It could not be by *Common-Law*, for
 that is only *Antient Cuſtom*, and the Doctor will not allow any *Citizens*
 and

and *Burgesſes* to be *ſummon'd* to *Parliament*, from the 49th of *Henry the Third*, to the year abovemention'd; and that in the 49th, being but once (according to the *Doctour's Tenet*) could never create a *Custom*; neither could it be by any *Statute*, for all thoſe (as he acknowledges likewiſe) are directly againſt him, and that of the 5th of *Richard the Second*, which the *Doctour* himſelf hath cited, ſufficiently declares againſt him, ſince it is thereby *provided*, ' that ' if any *Sheriff* of the *Realm* ſhould be from thenceforth negligent ' in making his *Returns* of *Writs* of the *Parliament*, or that he ' ſhould leave out in the ſaid *Returns*, any *Cities* or *Burghs*, which ' be bound, and of old time were wont to come to the *Parliament*, he ' ſhall be puniſhed in manner, as was accuſtomed to be done in the ' ſaid *Caſe*, in the ſaid time paſt.

Upon which *Statute*, I cannot but ask the *Doctour's Friends*, whether it is not plain from thence, that the *Citizens* and *Burgesſes* were of old Time obliged to come to *Parliaments*, (that is, to be ſummon'd to them) in the *French*, it is *d' Anciente*, from time of *Antiquity*, which muſt have been for above a *Hundred* years at leaſt; whereas if the firſt conſtant appearing of *Citizens* and *Burgesſes* in *Parliament*, were but in the 23^d of *Edward the Firſt*, it follows, that from that time to the 5th of *Richard the Second*, was not *fourſcore* and *five* years, and that being within the memory of many Men then alive, could not be called of old or antient Time; and what is yet more evident, the firſt claufe of this *Statute*, makes no diſtinction between the *Antiquity* of the *Biſhops* and *Lords* being ſummon'd to *Parliament*, and that of the *Commons*, ſince it is there expreſſly enacted, ' that all and ſingular Perſons and *Communities*, which from ' henceforth ſhall for time to come have *Summons* of *Parliament*, ' ſhall come as before to *Parliament*, in the manner as they are ' bound to do, and hath been accuſtomed within the *Realm* of *Eng-* ' land of old time; and whatever Perſon of the ſaid *Realm*, who ' from henceforth ſhall have the ſaid *Summons* (be he *Archbiſhop*, ' *Biſhop*, *Abbot*, *Prior*, *Duke*, *Earl*, *Baron*, *Banneret*, *Knight* of the *Shire*, ' *Citizen* of *City*, *Burgeſs* of *Burgh*, or other ſingular Perſon or *Com-* ' munity) do abſent himſelf, and come not at the ſaid *Summons*, ' (except he may reaſonably, and lawfully excuſe himſelf to our So- ' vereign Lord the King) he ſhall be amerced, and otherwiſe puniſhed according as of *Old Times* hath been uſed to be done within ' the ſaid *Realm* in the like *Caſe*. And then follows the *Clause* above cited, concerning *Sheriffs*; but the former part of this *Statute* the *Doctour* hath omitted for *Reaſons* eaſie enough to be gueſſed at.

* i. e. the
Communities
or civil Bodies
of Counties
and Cities and
Boroughs

I ſhall now make ſome *Observations* on theſe *Clauses* in this *Statute*: *Firſt*, that both the *Lords* and *Commons* are alike liable to be amerced (that is, fined to the King) if they ſhall neglect to come to *Parliament*, and that, according as of old, or antient Time, had been uſed; which ſhews, that both the coming of the *Lords*, *Peers* and *Commons* are expreſſed in this *Statute* as of like *Antiquity*, and the *Puniſhment* to be alſo the ſame for their not appearing upon *Summons*. *Secondly*, that *Sheriffs* in *Caſe* they neglect to make *due Returns* of ſuch *Cities* and *Boroughs* as were bound to come to *Parliament* of *Old Time*, ſhall be puniſhed as has been accuſtom'd in
time

time: *past* so that there is not only a *Custom* here asserted for the *Citizens* and *Burgesſes* coming to *Parliament*, but also for the *Punishment* of the *Sheriffs*; which ſhews, that they had been frequently *fined* and *amerced* for ſuch refusal or neglect, tho' the *Cases* concerning it do not appear in the *Year-Books*: By this then it is plain, that the *Doctor* is miſtaken in his *Aſſertion*, that it was *wholly left* to the *Diſcretion* and *Judgment* of the *Sheriffs*, which *Burghs* were fit and able to ſend *Burgesſes* to *Parliament*, and which not.

And ſuppoſe the *Sheriff* of any *County*, inſtead of excuſing a poor *Borough*, had for favour omitted to ſummon a *Rich* and *Able* one, can any *Man* think that he had not been liable to the *Petition* or *Complaint* of ſuch a *Borough*, and alſo, according to this *Statute*, to be *puniſhed* or *amerced* for ſo doing?

But perhaps will ſtill be urged by thoſe of the other ſide; if this *Statute*, or any other had taken any effect, how comes it to paſs, as appears from theſe *Precedents* cited by the *Doctor*, that the *Sheriffs* did continue to make the ſame *Returns*, and to excuſe many poor *Boroughs*, as well after this *Statute*, as before? Sure they would not have dared to have done ſo, had not this *Statute* never, (or at leaſt very rarely) been put in execution: But to this I anſwer, that the *Common practice* of a thing forbidden by *Law*, or the ſeldom executing the *Penalty* upon *Offenders*, does not give them a *Right* to break it at their *Diſcretion*, as was ſeen in the *Act* for *Conformity*, in the *Reign* of *King Charles the Second*, before He began to order a more ſtrict execution of that *Law* upon all ſuch *Diſſenters* as were taken at *Conventicles*; the like I may ſay concerning the *Statute* of *Carriers*, travelling on the *Road* with more than *five Horſes* in their *Waggons*, which tho' ſometimes put in *Execution*, yet does not deter *Offenders* from doing it notwithstanding; ſo likewiſe tho' *divers Sheriffs* in the times the *Doctor* mentions, did often make *false Returns*, and omit the ſending their *Precepts* to ſuch poor *Boroughs* as they had a mind to excuſe, yet that did not give thoſe *Sheriffs* any *Right* ſo to do, ſince ſuch poor *Boroughs* (as the *Doctor* allows in the *Caſe* of *Toriton*) might upon *Petition* to the *King* have been excuſed from ſending *Burgesſes* to *Parliament* for ever; for otherwiſe if the *Sheriff* ſhould have exerciſed ſuch a *Power* of *Right* (as the *Doctor* ſuppoſes) and that from the *General* words in the *Writs*, *de qualibet Civitate Duos Cives, & de quolibet Burgo duos Burgenſes*, he might not only have excuſed what *Boroughs* he had pleaſed, but likewiſe ſent his *Precepts* to thoſe that never were *Boroughs*, and have thereby made them *Parliamentary-Boroughs* for ever, which would have given the *Sheriffs* of *England* as *Great* a *Power* as the *King* Himſelf, in creating *new Boroughs* at their *Pleaſure*.

Yet even this *Opinion* (as abſur'd as it is) *Mr. Prynne* endeavours to maintain in his third part of his *Brevia Parliamentaria*, or * *Register* of *Writs* of *Summons*: I ſhall here give you the ſum of his *Arguments*. Firſt he begins with the *uncertain Returns* of the *Sheriffs* for the *Boroughs* in their *Reſpective Counties*, they being ſometimes *more*, and ſometimes *fewer*, according as they pleas'd to favour thoſe *Boroughs* they had a mind to excuſe; which ſince it is but the ſame *Argument*, that has been made uſe of by *Doctor Brady*, I only mention it, having, I hope, return'd a ſufficient Anſwer

* P. 225, 226.

swer to it already. Now that which only deserves our Notice, is, how so many *New Boroughs* came to send *Burgeses* to *Parliament* in the Reigns of the two *Edwards* the *Second* and *Third*, and their *Successors*, as low as the time of King *Edward* the *Fourth*? In answer to this therefore, it must be acknowledged, that in all those Reigns there are not to be found any *New Boroughs* created by the *Kings*, *Earls of Cornwall*, or other *Earls*'s, *Charters* to several *Towns* whereby they made them *Free-Boroughs*, and gave them an *enabling Clause* to send *Burgeses* to *Parliament*; therefore this Priviledge or Duty (call it which you please) must have arisen one of these two ways; either from *Prescription*, but Mr. *Prynne* undertakes to prove, that they could not send by *Prescription*, because he supposes that there were no *Citizens* and *Burgeses* summoned to *Parliament* before the 49th of *Henry* the *Third*: Or it must (as he says) have proceeded from the meer *Discretion* or *Judgment* of the *Sheriffs*, to whom it was left to send their *Precepts* to what *Towns* they pleased that were then called, or look'd upon as *Boroughs* in Common Acceptation, without ever troubling themselves to consider what *Right* they had to that *Title*; and this he endeavours to make out from these following Instances.

First, that in the latter end of King *Edward* the *First*, there were but one hundred and twelve *Cities* and *Boroughs* in *England* (taking in the *Cinque-Ports*) which sent *Members* to *Parliament*; yet that in the following Reigns we may find *new Precepts* issued by the *Sheriffs* and *Returns* made upon them, of no less than nineteen *New-Boroughs*, which (for ought as can be discover'd) never took upon them to elect or send any *Burgeses* before; besides several other *Precepts* that were sent to other *reputed Boroughs*, which yet made no *Returns* upon them.

Secondly, that tho' neither *Richard* the *Second*, *Henry* the *Fourth*, nor *Henry* the *Fifth*, ever made any *New-Boroughs*, yet that about the middle of *Henry* the *Sixth*'s Reign, there were *new Precepts* sent out for five *New-Boroughs*, which cannot be found to have ever sent any *Burgeses* to *Parliament* before, viz. *Gatton* in *Surrey*, *Heytesbury*, *Hyndford*, *Westbury* and *Wootton-Basset* in *Wiltshire*; which tho' but mean and inconsiderable Places, yet send *Burgeses* to *Parliament* at this day; and that in *Edward* the *Fourth*'s Reign, there was but one *New-Borough*, which began to send *Burgeses*, viz. *Grantham* in *Lincolnshire*, and had never sent any before: And Mr. *Prynne* * further asserts, that there have been fourteen *New Boroughs* set up in *Cornwall*, and in other Counties no less then sixty four erected, since the time of *Edward* the *Fourth* by the Practice of *Sheriffs*, set on by the Ambition of Private Gentlemen; seeking to be chosen *Burgeses* for them, and the Desire the *Burgeses* of those poor Towns had to chuse them, who were courted and feasted by them only for that purpose.

So that upon the whole matter † notwithstanding what Others may conceive, (and what this Author himself once inclin'd to believe) that the Right of *Cities* and *Boroughs* to send *Members* to *Parliament*, might Originally proceed from some *Antient Charters* of former Kings, heretofore granted to them; yet since his discovery of the old *Original Returns* of *Writs* for electing *Knights* and

* Ib. p. 229.

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† Ibid.

Ibid. 23

gesſes found by him in *Cæſar's Chappel* in the *White Tower*, he had rectified his former Miſtakes, being abundantly ſatisfied that neither bare *Antient Cuſtom*, nor *Preſcription*, before, or ſince the *Conqueſt*, nor our King's *Charters*, but the *Sheriffs* of each *Counties Precepts* and *Returns of Elections of Citizens and Burgeſſes*, for ſuch *Cities* and *Boroughs* as they thought meet, by *Authority* and *Power* granted them in, and by this general *Claufe*, in the King's *Writs of Summons to Parliament*, iſſued to the *Sheriffs* of every *County*, before every *Parliament*, enjoyning them in theſe words, (which I here tranſlate) *that they cauſe to be elected two Citizens out of each City, and two Burgeſſes out of each Borough to appear in Parliament, without deſigning which or how many Cities and Boroughs by name in each County ſhould have Precepts ſent to them to elect them*: So that, according to him, from this general *Direction*, the *Sheriff* hath uſed a kind of *Arbitrary Power* in the execution of this general *Claufe*; according as his *Judgment* guided, or his *Favour*, *Affection*, *Partiality*, *Malice*, influenced him, or the *Solicitations* of any private *Boroughs* to him, or of *Competitors* for *Citizens* or *Burgeſſes* places within his *County*, ſway'd him: this is moſt apparent by ſome *Sheriffs* in ſeveral *Counties*, returning more *Boroughs* and *Burgeſſes* than their *Predeceſſors*, others cauſing *Elections* and *Returns* to be made for ſuch *New Boroughs* which never *elected*, or ſent any before, nor after their *Sheriffalties*, as he thinks evident from the *Returns* he there inſtances, which ſince they are alſo mention'd by *Dr. Brady*, I will not repeat.

P. 232.

This is the Sum of *Mr. Prynne's* Arguments and Authorities, who indeed carries this point a pretty way further than what the Doctor has done in his laſt Treatiſe; for whereas he aſſerts the *Sheriff's* Power from the *General Claufe* above-mention'd, of omitting what *Boroughs* he pleas'd; *Mr. Prynne* maintains, that the *Sheriffs* had a Power not only of omitting, but alſo of naming, or rather creating *new Boroughs* at their Pleaſure; the falſhood of which Opinion I think will not prove hard to demonſtrate.

I ſhall not repeat what is already ſaid in Answer to the Doctor's Notion, only take notice, that it is built upon the ſame falſe Foundation with *Mr. Pryn's*, that the *Sheriffs* were impowr'd from that *General* and *Indefinite Claufe* in their *Writs of Summons*, of uſing an *Arbitrary Power*, in iſſuing out their *Precepts*, and making their *Returns* to and from what *Boroughs* they pleas'd; which can no ways be warranted from thoſe *General* words; for the *Sheriffs* are thereby impowr'd to cauſe two *Citizens*, and as many *Burgeſſes* to be choſen out of each *City* and *Borough*, that is, thoſe that were then known to be ſuch, and not to excuſe, much leſs ſuppreſs which of them they pleas'd, and ſo to create *New* ones at their ſole Wills; but were certainly obliged to proceed according to ſome known Rule in the execution of this *Great Truſt*, or elſe they could never have been ſubject to the *Penalty* in the Statute of the 5th of *Richard* the *Second* above-mention'd. And for the further proof of this, I deſire that thoſe of the Doctor's Opinion would ſatisfie us by what Rule *Simon Montfort* proceeded, in the *fiſt Summons* that they ſuppoſe he made of *Citizens* and *Burgeſſes* to *Parliament*, in that remarkable year of the 49th of *Henry the Third*; for it appears, that

thoſe

those very *Writs of Summons* which the * Doctor hath cited for ^{* B. A. P. p. 140.} the *Cities and Boroughs* sending *Members* to that *Parliament*, were not directed to the *Sheriffs*, but to the *Cities and Boroughs* themselves; so that *Montfort* must have either appointed the *Cities and Boroughs*, which were thus writ to, to send *Members* to *Parliament* according to his sole Direction, or he must have proceeded by some known *List or Rule*, what *Towns* were *Cities and Burghs*, and what were not; and this way of directing *Writs* might have been us'd for several other *Parliaments*, tho' they do not appear, the *Writs of Summons* not being now extant.

If these Gentlemen will say *Montfort* had no other *Rule* for it, than what his own *Judgment and Discretion*, with the Advice of those of his *Faction* thought fit to prescribe, this is *gratis Dictum*, and withal highly improbable; since it appears not only from the *Records* the Doctor has cited, but also from the *Histories* of those Times, that there were divers *Cities, Boroughs and Free-Boroughs* then in being, which were possessed of several *Great Priviledges* that other *Towns* had not; and it further appears by the *General Title* to these *Writs of Summons* to the *Cities and Boroughs*, (which follow those for the *Knights of Shires*) that it was then very well known what *Towns* were *Cities and Boroughs*, and what were not; the words are these, *Item in eadem forma scribitur Civibus Ebor. Civibus Lond. & cateris Burgis Angliæ, quod mittant, &c.* without specifying which they were, which would have been a very improper way, if those *Towns* had been then first erected into *Boroughs*.

Besides, if *Montfort* and those of his Party had no other *Rule* to go by than their own particular Fancies in this Affair, it would have made them to have *summon'd* none, but the *Great Cities and Rich Boroughs* of *England*, which were able to bear the *Expence* of sending up their *Representatives* to *Parliament*; and that had been sufficient to have countenanced his Proceedings, and not to have sent *Writs* to all the rest of the *Boroughs* of *England*, as it seems he did, by the words *Cateris Burgis Angliæ*, without any Distinction, whom he must rather have disobliged, than caressed by laying this *New and unheard of Burthen* upon, of coming up to *Parliament*.

This also carried along with it a *Right* of giving *Taxes* by themselves, and that in a larger Proportion than the rest of the *Towns* of several Counties: which way of proceeding was not suitable to the Politick Contrivance of *Simon Montfort* and the Barons (as he says) of his *Faction*, whose Business it was to make as many *Friends*, and as few *Enemies* as they could; least they should quit theirs, and joyn with the King's Party.

But if on the other side the Gentlemen above-mention'd will own, that *Montfort* had then some known *Rule* to act by, and that it was upon *Record* in the *Exchequer*, or some other Place, what *Towns* were *Cities and Boroughs*, and what were not; the same *Rule* might be observed ever after, supposing (as Mr. *Prynne* does) that the *Cities and Boroughs* continued to send *Members* to *Parliament* all the rest of this King's and his Successor's Reigns; or if these Gentlemen will follow the Doctor's Opinion, and not allow them to have been *summon'd* again till the 23d of *Edward the First*, the difficul-

Treat. of Boroughs, p. 41.

ty will prove the same; by what *Rule* those *Sheriffs* that first sent out their *Precepts* to Elect *Citizens* and *Burgeffes* to *Parliament* then were? For I have already proved, that this *General Clause* in their *Writs* did impower and direct them to summon *Members* from such *Places*, as were then actually *Cities* and *Boroughs*, but did not leave it to their *Discretions*, what were to be accounted so, and what not; since that had given them as great a *Prerogative* as the *Crown* it self could exercise. But if (as Doctor *Brady* himself acknowledges) in the Case of the Town of *Lindon*, it was to be tried by *Domes-day-Book*, and the *Records* of the *Exchequer*, which were *Boroughs*, and which were *Ordinary Towns*; this was certainly a *standing Rule* for all other *Places*, and the *Sheriffs* might have kept among the *Records* of their Courts, perfect *Lists* of such *Cities* and *Boroughs* from the *Exchequer*, as were in their *Respective Counties*, though they are now lost, as being of no use, since this matter is long since settled by a long constant usage and practice.

Having shewn the Great improbability and impracticableness of this Opinion, I shall conclude with a brief Answer to those Arguments and Authorities Mr. *Prynne* has there given us to confirm it; which are in effect no more than this; that the *Sheriffs* of several *Counties* did in the Reigns he mentions, often send out *Precepts* to several *New Boroughs*, that had never sent any *Members* to *Parliament* before, and consequently that it was wholly in their *Power*, and left to their *Discretion*, to increase or omit them as they thought fit. But this will prove no Cogent Argument, since Mr. *Prynne* has not there made out the matter of *Fact*, viz. that those *Boroughs* he mentions, never had any *Precepts* sent them to elect *Burgeffes* before the years he assigns; for the only proof he brings, that these *Boroughs* had never before sent any *Burgeffes* to *Parliament*, is, that he could find no *Returns* made by the *Sheriffs* of their *Election*, but only of those he has discover'd, and therefore there could be none others ever issued; which does not by no means follow, unless he could have assured us, that he had gotten an entire *Collection* of all those *Returns*, and that none of them had been lost in so long a Tract of Time; but that it is more than probable, that many *Returns* for those *Boroughs* he mentions, were lost, or destroyed by ill-keeping, appears from these Considerations.

First, That these *Returns* of the *Sheriffs* were never entred upon any *Rolls*, whereby they could be kept together, and found in an exact *Series* as other *Records* are; but were kept in distinct loose *Bundles*, many of which Mr. *Prynne* himself preserved from rotting by Dust and Dampness in *Cesar's Chappel*; and who can tell how many of them had perished by the same causes, or perhaps from other Accidents? Or, it may be, through the carelessness of the Officers, whose business it was to preserve them, had never been carried up at all, but were left to take their Chance, and so were lost among a multitude of other *Records*, that when once executed, were looked upon as of little or no value?

And that this is most likely to be the truth of Fact, I shall prove from the Instances and Observations Mr. *Prynne* himself has given us; first he observes, that all the *Writs* of *Summons* for *Knights* of *Shires* are lost, from the 49th of *Henry the Third*, to the 23d of *Edward*

Edward the First, as also all the *Writs* for their *Expences*, till the 28th of that King; and certainly the *Returns* of *Sheriffs* for the *Cities* and *Boroughs* are more likely to have been lost, as not being enter'd upon the *Roll*, but preserved in loose Bundles. Secondly, that as for the *Cinque-Ports*, viz. *Dover*, *Rumney*, *Sandwich*, *Winchelsey* and *Hastings*, tho' there are no *Returns* at all to be found for their sending any *Members* or *Barons* to *Parliament* before the Reign of Edward the Third, yet he grants, it appears from the *Clause-Rolls*, that they sent them of the 49th of Henry the Third; B.A.P. p.140. and Dr. Brady hath published the *Writ* to the *Barons* of *Sandwich*, for the *Electing* of two *Members* for that *Parliament*, and Mr. Prynne likewise grants from other *Patent-Rolls*, that they sent their *Barons* to *Parliament* during the Reigns of Edward the First and Second. Now if the *Sheriff's* *Precepts* for the *Electing* *Burgesses*, and the *Returns* of them by the *Cinque-Ports* are lost, and this for those that were then the most considerable *Boroughs* of *England*, can any one think, that the like *Precepts* and *Returns* were not lost and destroy'd for many other *Antient Boroughs* of *England*? But this will still further appear from another of * Mr. Prynne's *Instances*, concerning the *Returns* for these five *New Boroughs* (as he supposes them to be) in the Reign of Henry the Sixth, viz. *Gatton*, *Heytesbury*, *Hyndford*, *Westbury* and *Wootton-Basset*, which he grants to be even then, but poor, inconsiderable Places.

* *Brevia Parliament. p. 228.*

Now I will leave it to the Reader's consideration, whether it be at all probable, that the *Sheriff* should then take upon him to advance such poor *Towns* into *Boroughs*, and make them *Elect Burgesses* to *Parliament*, and consequently to pay their *Expences*, which must then be a great Charge and Burthen to them, and that too in an Age, when not the *Neighbouring* Gentlemen, but only *Inhabitants* of those Places were capable of being *Elect*: Or whether those *Towns* would have sat down contented with such an *Imposition*, when upon their *Petition* to the King and his Council in *Parliament*, they might have been relieved and discharged from that Service; as in the Case of *Toriton* mention'd by Dr. Brady, of which I shall speak further by and by. And no doubt but that there were several Others exempted upon the like Account, tho' the *Charters* for such *Exemptions* might be lost, and such as these, I judge some of those *Boroughs* to have been, which having discontinued sending any *Members* to *Parliament* for several Ages, yet were restored to their *Antient Privilege* by Order of the long *Parliament* in 1640, when *Wages* being then almost quite disus'd, that *Service* was looked upon rather as an *Advantage* than a *Burthen*.

But tho' several poor *Antient Boroughs* did esteem it a Charge and Trouble to them, yet that it was looked upon as a *Great Privilege* by other *Great* and *Richer-Towns*, that could sustain that *Expence*, appears from the *Petitions* of *St. Albans* and *Barnstable* already mention'd, in which they insisted upon their *Privilege* of sending *Burgesses* to *Parliament* as their *Antient* and *undoubted Right*, and which was allow'd them by those Kings to whom they petitioned: so that the Doctor's concluding Remark upon this Head, is untrue, † that no Burghs during all the Reigns (he instances in) from the time of Edward the First, to Edward the Fourth, ever complain'd of

† *Treatise of Boroughs*, p. 59.

Id. p. 60.

Rot. Pat. 42.

Ed. III. part.

1. M 8.

of the Sheriffs for not returning them Boroughs, or the not sending Precepts to them, as taking away their Birth-Rights, &c. nor was it accounted an Advantage, Honour, or Privilege to be bound to send Burgeses to Parliament, but rather on the contrary, it was reputed a Burthen and a Grievance for Poor and small Burghs to send them; and then he instances in the Case of Toriton in Devonshire, which petition'd the King in Parliament to be discharg'd of sending Burgeses to Parliament, which was granted.

This I do not oppose, only it is to be noted, that in their Petition, they do not desire to be exempted from that Service, as having any Antient Right to it, but set forth, that they were no Antient Borough, nor had ever been accustomed to send Burgeses to Parliament before the 21st of King Edward the Third; which whether true in matter of Fact or no, is not the Question; for admitting it was an Antient Borough, it does not therefore follow, because some poor Boroughs were willing to be rid of that Charge, and attendance in Parliament, that therefore there were none that accounted it an Honour or Privilege to be so obliged; since certainly (in Case those poor Boroughs could have afforded it) it was a Great Privilege and Honour to give their Consents to the granting of Aids and other Taxes, and to have a share in the Legislative Power of the Nation. nor does it's being Chargeable and Burthenfom at all derogate from it's Honour, since even the Attendance of the Knights of Shires themselves is a great Charge and Tronble; however, that does not make it no Privilege and Honour to serve in Parliament; for it is an old Rule, *qui vult sentire Commodum, sentire debet & Onus*.

I shall now conclude with some short Remarques, upon what Mr. Prynne has said concerning the Partiality and favour of Sheriffs, in making divers new Boroughs to gratifie the Ambition of Neighbouring Gentlemen, who desired to be chosen Members of Parliament. This indeed is not only very improbable, but highly impracticable, when Wages were paid by all Cities and Boroughs to their Members for the time they had served; and which, as Dr. Brady himself acknowledges, was the main reason that made such poor Boroughs so willing to be rid of the Burthen of sending Burgeses to Parliament; so that before the latter end of the Reign of Henry the Eighth, the Sheriffs could not do it, till those Wages generally were left off from being levied, or paid by the Respective Cities and Boroughs, which is not many years ago, no longer than the Reigns of Henry the Eighth, and his Successors; when Gentlemen of Estates came to be commonly chosen, instead of the Burgeses of those Towns, and by that time all the Boroughs of England that sent Members to Parliament, were so well known and settled, that no Sheriff durst at his Peril have issued out his Precepts to any new Towns, who had not been accustomed to send Burgeses in former times; for neither the King nor House of Commons themselves, would ever have endured such an Encroachment and abuse of the Sheriff's Power.

Besides, if this had been a thing easie to be done, and which the Sheriffs could have justified as a Common practice, I see no reason why they might not have gratified their Neighbours, after once Wages were discontinued, and have sent Precepts to Agmundesham,
Wendo-

*Wendover, Milborn-Port, and several other Antient Towns of England to Elect Members of Parliament, though they had been excused from sending any for above three hundred years, because of their poverty; seeing that great Obstacle of paying Wages being removed, there might have been Neighbouring Gentlemen enough to be found, who would have been very desirous of that Honourable Employment, and it is very likely would (had it been practicable) have gratified the Sheriff's very well for their so doing. And yet we do not find they ever durst venture on so dangerous a Project, nor issue out any Precepts to those Towns to chuse Members, * till upon their Petitions to the House of Commons in 1640, they were order'd to send out Precepts to those Towns, and several others, that then desir'd to be restor'd to their Antient Priviledge; in granting which, whither the House of Commons in 1640, did well or ill, is not my present Business to examine. I shall conclude this Head with some short Remarques upon † Mr. Pryn's 8th Observation, that upon the Consideration of the Premises, (that is, of those Boroughs he there mentions, who in the year 1640, had the Priviledge of sending Burgeses to Parliament again revived and regranted to them.) He is of Opinion, that since the Statutes of 5 Richard the Second, c. 4. 1 Henry the Fifth, c. 1. 23 Henry the Sixth, c. 25. no Sheriffs by vertue of the King's Writs of Summons, and forecited Clauses in them, can erect, or enable any New-created, or old long discontinued Boroughs, to chuse and return Burgeses to our Parliaments, what ever they antiently did or might do before these Acts.*

* Vid. Pryn.
Brevia. Par-
liament. p. 238.

† Ib. 238. b.

In all which, though I agree with this Author concerning the matter of Law, yet I cannot see any reason why the Sheriffs should have had greater Power to make what Boroughs they pleas'd to Elect Members to Parliament, or to excuse those they pleas'd to favour, before those Statutes than afterwards. For whoever will take the Pains to consult those Statutes, will find, that they rather inake against, than for this Author's Opinion; because that of Richard the Second declares, that all such who have Summons to Parliament, shall henceforth come thither, as hath been accustomed of old Time, and which is there as much declared to be the Right of the Citizens and Burgeses, as of the Bishops and Peers; but as for the other Statutes of Henry the Fifth and Sixth, they were made to restrain and prevent the Abuses of Sheriffs in making false Returns, not to abridge any Authority they before lawfully enjoy'd or exercised.

I should have proceeded to the || Doctor's second Question, || Id. p. 60. who antiently were, or ought to be Electors in real or pretended Burghs? in deciding of which, he endeavours all he can to * prove * Ib. p. 68. 69. (if possible) ' that the Election of Parliament-Men in all Cities and ad finem.
' Boroughs, was, and ought to be in the Mayor or Bailiffs, and
' a select number of the Common Council, and richer Burgeses of
' those Places, and not in the poorer Burgeses and ordinary Freemen; because (I suppose) those being a great Many, are not so easily bribed, or managed by the Court-Party, to pack a Parliament by Brow-beating, Threats, or perhaps open Force; as it is evident was intended, if a Parliament had been Elected according to King James the Second's new Model. But though I could say a great deal against

against what the Doctor has there laid down for plain proofs, which indeed are not so; yet since these Papers have already swell'd to too great Bulk, and that I fear tiring the Reader's patience, I shall leave the *Cities and Boroughs of England* in the quiet possession of their *Antient Liberties*, and Methods of *Election of Citizens and Burgessees*, which they now enjoy, by the happy coming in of our late Illustrious King *William the Third* of ever glorious Memory, who by the *Blessing of Heaven* broke and disappointed all those *Papish and Arbitrary Designs* then on foot, to destroy both our *Religion* and our *Civil Liberties*; which yet never could have been thoroughly effected, without *new Modelling of Corporations* by taking away their *Old Charters*, and granting Others upon those Terms and Conditions the then Government thought fit to allow them. The main Project of this was, to reduce the *Electors* of all the *Cities and Boroughs of England* (which make above *two Thirds* of the House of *Commons*) into as few Hands as they could, and those were, in *Town's Corporate*, either *known or suspected Papists*, or else open *Dissenters* from the Communion of the Church of *England* as established by Law.

P. 82.

I shall now conclude this Discourse, with answering an Objection to Mr. *Petyt's* Supplemental Argument, which was first made use of by him in his *Right of the Commons asserted*; whereby he would prove from the *Titles to several Statutes* made in the Reigns of *William and Alexander the First and Second Kings of Scotland*, that the *Citizens and Burgessees* of the Principal *Cities and Boroughs* there, being also summon'd *Time beyond Memory*, there were always *Commons* in those *Parliaments*; and consequently that Government being the same in all the *Essential Parts* of it with Ours, it must have been so in *England*, likewise, long before the 49th of *Henry the Third*. I must confess that Dr. *Brady* in his Answer to this Treatise of *Mr. *Petyt's*, has turn'd this Argument against him, and there proved, that the *probi Homines Scotiae*, and the *Liberi Tenentes* mention'd after the *Comites and Barones* in those *Laws*, were only the King's less *Tenants in Capite*, and such as are called *Lairds* at this day, though they neither are, nor ever were *Peers of Scotland*, and so consequently far as *Commoners* in those *Antient Parliaments*; yet however, that the whole Civil Body or *Communitas Regni* (as it is stil'd in several *Antient Statutes*) always consisted of the *Bishops, Abbots, Priors, Earls, Barons*, and other *Great Men or Tenants in Capite*, the Doctor evidently proves by the Title to the

† *Statut. Rob.*
III. f. 63.

† *Laws of King Robert the Third*, who began his Reign *Anno Domini 1390*. (being the tenth year of our *Richard the Second*) of which I shall give you the *English Translation*, referring the Reader to the Doctor himself for the *Latin One*.

B. A. P.
p. 99.

The Parliament of our Lord *Robert the Third, &c.* King of *Scots* held at *Scone* on the twenty first of *February*, in the year of *Grace 1400*, and in the Eleventh year of his Reign (with the Continuation of the subsequent-Days) the *Bishops, Priors, Dukes, Earls, Barons, Free-holders and Burgessees*, who hold of our Lord the King *in Capite*, or in Chief, being call'd and summon'd thither according to the usual Custom.

Then

Then having shewn the *Antient Constitution* of the *Scotish Parliaments*, the Doctor for the Reader's satisfaction further tells us, when, and how it came to be alter'd; and for that end, he has there transcribed from the * Book of Statutes of that Kingdom, an Act * P. 17. m. 10. made in the Seventh Parliament of King *James the First* of Scotland, whereby the *small Barones* and *Freeholders* were discharged from coming to *Parliaments* in their own Persons, which being somewhat long, I shall give you here the Substance of it in the *Scotish-English* of that Time, and leave the Reader to peruse the Act at large at his leisure: It is to this effect.

Ibid

The King with the consent of the Haill Council generallie hes Statute, and Ordained, that the small Barronnes, and Free-Tenentes neid not cum to Parliaments, nor General Councels, swa that of ilk Schirefdome there be send, chossen at the Head Court of the Schirefdome, twa, or maa Wise Men, after the largeness of the said Schirefdome, &c. the quhilk sall be call'd Commissares of the Schires, &c. quhilk Commissares sall have full and haill Power of all the laif of the Schireffedome under the witnelling of the Schireffis Seal, with the Seales of diverse Barones of the Schire, to heare, treate, and finallie to determine all Causes to be proponied in Cuncel or Parliament; then follows a Clause, that they shall have Costage, that is, Wages of ilk Schire; and concludes, that all Bishoppes, Abbotes, Priors, Erles, Lordes of Parliament, and Ban-rentes, the quhilkis, the King will be received and summoun'd to Cuncel and Parliament be his special Precept.

Then to shew that this Statute was only made by the *Tenants in Capite*, the Doctor has there also transcribed the Title to this Act, which being in *Latin*, I shall give it you in *English*.

' In the Seventh Parliament or General Council of the most Illustrious Prince *James*, by the Grace of God of *Scotland*, held at *Pert* the on ' the first of *March*, *Ann. Dom. 1427.* and of his Reign the 23d, (with ' a Continuation of Days and Times) there being summon'd ' and called after the due and accustomed manner the *Bishops*, *Ab-* ' *bots*, *Priors*, *Earls*, *Barons* and *Free-holders*, who hold of our Lord ' the King in *Capite*, and of each *Borough* certain *Burgesses*, who ap- ' pearing, &c. yet this Statute was not so strictly observed, but the *Tenants in Capite* did sometimes after it's being enacted, come a- gain to *Parliament* in a *Body*, and not by *Representatives*, till this *Law* was renew'd and confirmed in the Eleventh Parliament of King *James the Sixth*, holden at *Edenburgh*, *July 29. 1587.* wherein after a short recital of this † Act of King *James the First*, there is † Ib. n. 113. appointed the manner of *Electing* the said *Commissioners* of *Shires* 290. by the *small Barons*, or *Free-Tenants* in a *Court*, or *Meeting* to be held only for that purpose, together with the qualifications of the Persons to be *Elect*ed, and that nane having voit in their *Elect*ion, bot sik as hes * *Fourtie Shilling Land* in *Free Tennendrie* halden of the * Which is King and hes their actual *Dwelling* and *Residence* within the same *Schire*. now near as much as ten pounds per Ann. present State of Scot- And that the *Compeirance* of the said † *Commissioners* of the *Schires* in land, p. 77. *Parliaments* or *General Councelles*, sall relieve the *Haill Remanent small* † Id. p. 291. *Baronnes* and *Freeholders* of the *Schires* of their *Snites* and *presence*, aucht in the saids *Parliaments*. By which *Titles* to the *Statutes* of King *Robert the Third*, and that of *James the First*, and this subsequent Statute of *James the Sixth*, it plainly appears, (says the

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* Doctor)

* *Ib. p. 100.* * Doctor) that the King's smaller *Tenants in Capite*, were the only *Commons* in the *Scotish* Parliaments; and by the last Clause of this Statute of *James the Sixth*, it likewise appears, that the *small Barons*, *Free-holders* or *Tenants in Capite*, thought it a *Burthen* to come to, and Remain in *Parliaments*; and therefore not being willing to undergo that trouble in all probability, they *petition'd* they might for the future appear, and be represented by *Commissioners* as they are at this day.

† *Ibid.* As to the *Boroughs* they make the *Third Estate*, † and do each of them send but one *Burgefs* to *Parliament* (except *Edinburgh*, which sends *two*) which are all *Chosen* by the *Common Council* of the *Towns*. There are in *Scotland* three sorts of *Burghs*, that is to say, *Royal-Burghs*, *Burghs of Regality*, and *Burghs of Barony*: But the *Royal-Burghs* called *Burgi Dominici Regis*, or *qui de Rege tenent in Capite*, only send *Commissioners* to *Parliament*, and are in number *Sixty*.

Ibid. From all which Observations concerning the *Constituent Parts* or *Members* of the *Scotish* Parliaments, and the great *Affinity* or *Likeness* there was *antiently* between *Ours* and *Theirs*; the Doctor concludes it to be certain, that *Our* and their *Communitas Regni* was the same, that is, they were the *small Barons* and *Tenants in Capite*; and it is highly probable, says he, that when this *Communitas* left off coming personally to *Parliament* in *England*, and came by *Representation*, they were at first represented by *Two* of their own Number sent from every *County*, and also that originally the *Burghs* that sent *Members* to *Parliament*, were *Burgi Dominici*, the King's or *Royal-Burghs*, such as ever did, and to this day in *Scotland* send *Burgefses* to *Parliament*.

But to give you all that the Doctor could say upon this Subject together, I shall here also add, what he has affirmed concerning the *First Electors* of *Knights of Shires* in *England*, and who were the Persons then *Elected*.

|| *P. 19.* In his || Answer to Mr. *Petyt*, he has already asserted, that the smaller *Tenants in Capite* with their *Inferior Military Tenants*, (in all probability) were the Men that *first Elected* two *Knights* in every *County*, out of the *Tenants in Capite*; and only they, as *Suitors* to the *County-Court* were the *Electors*, when at first the *Body* of them began to be thus represented, that 'tis very likely this was the reason of the Statute made afterwards in the 7th of *Henry the Fourth*, c. 15. *Ann. Dom. 1406.* that the *Election* should be made in the *County-Court* by all the *Suitors*, &c. and that this likewise might be the Reason why the Statute of the 8th of *Henry the Sixth*, c. 7. by which any Man who had 40 s. *per Annum*, of any *Tenure*, was permitted to be an *Electors*, was altered, and so explain'd, that none but *Free-holders* of 40 s. *per Annum*, should afterwards be *Electors*, appears by the 10th of *Henry the Sixth*, c. 2. made *Ann. Dom. 1432.* with respect perhaps to the least part of a *Knights-Fee*, viz. 40 s. *per Annum*, which were then come into the Hands of very ordinary Men; for antiently, as he supposes, soon after or near the *Conquest*, there were very few, or no great *Socages*, that is, such as held Great Estates in *Socage*; and neither the small ones, nor the *Nativi* or *Copy-holders* were reputed *. *Liberi* or *Legales Homines*, or performed the Service

* 11 Hen. I.
C. 29.

Service proper to such *Military Tenants*, or those to whom they had alienated part of their Fees.

Having truly set down the *Antient and present Constitution* of the *Scottish Parliaments*, from Dr. *Brady's Answer* to Mr. *Petyt*, as also his Opinion of our *first Knights of Shires*, I shall not deny the matter of Fact as to *Scotland*, to be as he has represented; but notwithstanding the *Resemblance* (which I grant) there was *antiently* between the Government of *that*, and *this Kingdom*; yet it does not follow, that it is either *Now*, or *Ever* was just the same in all points, as I can shew you from divers Instances. For the Authority of the King or Royal Prerogative, was antiently much more limited and restrained in *Scotland*, than it was in *England*; and the power of the Nobility or Great Tenants in *Capite*, was much more *Absolute* in respect of the King, and also over their Tenants and Vassals, than ever it was in *England*, as I could prove particularly, were there any Occasion for it. Nor does it follow, that because the *Communitas Regni*, or *Civil Body* of that Kingdom, consisted wholly of Tenants in *Capite*, that therefore *Ours* must do so too; since in *Scotland* there is very little *Socage-Tenure*, and that which remains, is so wholly *Servile*, as to plough their Lord's Lands, &c. that it was much the same with our *Copyhold Estates* in *England*.

But on the contrary, there never was any such thing in *Scotland*, as Tenure in *Free-Socage* by performing some few but honorable Services, or paying a certain Rent, as did the King's Tenants by *Petty-Serjeanty* in *England*, or else such as held of the Bishops, Abbots, Priors, and Deans and Chapters of Cathedral-Churches, who held only in *Libera Eleemosina*, and therefore their Tenants could not hold of them by *Knight's-Service*; and further, the greatest part of *Kent* was *Gavelkind-Land*, held in *Free-Socage*, either of the King, or the Archbishop of *Canterbury*, and Bishop of *Rocheſter*, or else of the Great Monasteries in that County; and this is the reason why in * *Domes-day-Book* there are (besides the King) but

* Vid. Dr. B's Append. to his Introduction, p. 3.

Twelve other Owners of Lands held by *Knight's-Service* in *Capite*, of which the *Lay-Tenants* are but five, all the rest being Bishops or Abbots.

Now all these *Socage-Tenants* taken together, made a considerable number of Persons of very good Estates, notwithstanding the Doctor's Assertion, that the Tenants in *Socage* were for a long time after the *Conquest* very few; whereas about the middle of *Henry the Third's* time, they were so numerous and considerable, that in certain Writs of that King, which He issued out to the Sheriffs for the Summoning in the County-Courts all such to be made Knights, who held one *Knight's-Fee*, or less than a whole *Knight's-Fee* of any sort of Tenure, *dum tamen de Tenemento suo, tam militari, quam Socagio possint sustentari*, i. e. provided they could maintain themselves (according to their Quality) out of their Estate or Tenement, as well of *Military*, as *Socage Tenure*. And the Priviledge of these *Socage-Tenants* was such, that their Lords could not grant Taxes for them in Parliament at their pleasure, as I have already proved from that Passage in *Bracton*, *sunt quedam Communes Prestationes quæ ad Dominum Feodi non pertinent*, &c. which I have cited at length in the former part of this Discourse, and from whence

Rot. Claus.
24 Hen. III.
M. 8. Dorſo.
26 Hen. III.
M. 6. de Militibus faciendis.

also I have proved, that the *Tenants in Capite*, though they could grant a *Scutage* for *Themselves* and their *Tenants*, yet they could not lay a *Carvage*, because that *Tax* extended to all the Lands of the Kingdom, of whatsoever Tenure.

And these *Tenants in Free-Socage*, were as much *Freeholders*, as those by *Military Service*, and as such, ow'd suit to the *County-Court*, or else they could not have been there *summon'd* by the *Sheriffs* to come and take the order of *Knighthood*, as by the foregoing *Record* is appointed; and these *Tenants in Socage* were also as Capable as those by *Knight's-Service*, to give their Votes for the *Representatives* of their Respective *Shires*, and might if they had sufficient Estates, be *chosen* themselves, as appears by the *Knights* for *Kent*, who must have been for the most part *Tenants in Gavelkind*, since the greatest share of the Lands of that County were of that Tenure, as hath been just now observed: Whereas the Constitution of *Scotland* was quite otherwise, the *Tenants in Capite* there were almost the whole Kingdom; and those by *Knight's-Service* under them made so small a Figure, that when *Commissioners* for *Shires* were first appointed (by those Statutes above-mention'd) to be *chosen* to come to *Parliament*, instead of the *small Barons* or *Tenants in Capite*, the *Inferior Tenants* by *Knight's-Service*, who held under them, were not reckoned among the *Liberi-Tenentes*, or *Freeholders* of the Kingdom, neither were they admitted to have any thing to do at the *Election* of the said *Commissioners*, and even the smaller *Tenants in Capite* themselves, which had not 40 *s. per Annum* Rent, stand excluded from giving any Votes at such *Elections*, by the Statute of *James the Sixth* above-mention'd: But here in *England* the Constitution was, that all *Freeholders* of what Tenure soever, had equal Votes at the *Election* of *Knights* of the *Shires*; and therefore it is a very erroneous Assertion of the Doctor's, and no way probable, that the *Tenants in Capite*, with their *Inferior Military Tenants*, were at first the only *Electors* of *Knights* of *Shires*, or that the *Tenants in Capite* were the only *Persons* so *Elected*; since I have already proved, that other *Inferior Tenants* (provided they were Men of sufficient Estates and understanding) were altogether as capable of being chosen *Knights* of *Shires*; and these indeed in several Records were called *Grantz des Counties*, yet not as the Doctor imagines, from their being *Tenants in Capite*, but from their having great Estates in their Countries of what Tenure soever, as I have already proved in another Place, and therefore need not repeat here.

And therefore what the Doctor hath cited from the Statutes of the 7th of *Henry the Fourth*, and 8th of *Henry the Sixth*, does not at all Countenance his Opinion, but the direct contrary; for he himself allows, that by the former of these Statutes all the *Suitors* at the *County-Court* of whatsoever Tenure, were permitted to give Votes at the *Elections* of *Knights* of *Shires*, which indeed was not a bare permission; but a matter of *Right*; and if you please to peruse that Statute of *Henry the Sixth*, cited by the Doctor, you will find it was not made to abridge that *Liberty*, but only to reduce the former Statute of *Electors* to a certain Value, and to exclude all Men of whatsoever Tenure, that had not 40 *s. per Annum* from giving any Votes at such *Elections*; so that the Alteration was
not

not (as he supposes) in the Tenure of the *Electors*, which continued still the same *Socage-Tenants*, as well as those by *Military Service*, having still alike Votes at *Elections*, though as for *Copyholders*, they were not looked upon as *Freeholders*, and consequently had not then, neither have at this day any Right to vote at the *Elections* of *Knights* of Shires.

But further to shew the improbability of the Doctor's Opinion, even from what he himself has proved concerning Scotland, that the Bishops, Lords and *Tenants in Capite*, were not only antiently the *Community*, or whole *Civil Body* of the Kingdom, but are so to this day, the *Commissioners* for Shires did, and still do only represent those that chuse them, and none Others; yet could not the King make even this *Alteration*, in appointing two of the *small Barons* and *Tenants in Capite*, to appear for all the rest by his own single *Prerogative*; for the Doctor shews it was done by two several *Statutes*, to both which they gave their *Consents*: and he further says (that it was not unlikely) that it was at their *Request*, that the King consented to it, to save the *Trouble* and *Charges* of all the rest.

Now let those of the Doctor's Opinion shew us any *Law* or *Statute* in England, whereby the *Knights* of Shires were ever appointed to represent all the *Military Tenants* of the Kingdom, and I shall then agree to whatsoever further they can say. But perhaps they will alledge, that whenever this *Alteration* was made, the King did it by his sole *Prerogative*, as *Simon Montfort* made it at first by his own *Usurped Power*, and that of his Faction; but this I deny, since I have already proved, that the Person last mention'd, had not such an *Absolute Power*, as to make so great a *Change*, without the expresse *Consents* of the *Tenants in Capite* themselves, neither could *Edward the First* do it (as the Doctor supposes he did) by his *Sole Prerogative*, for the less *Tenants in Capite* being then a very numerous and powerful Body, it was not in the Power of this King, to have so far abridged the Interest of all the *Tenants in Capite*, as appears by the indefinite words in the *Writs* of *Summons*, of giving the People a Right to chuse any two *Knights* that were most fit for business, whether *Tenants in Capite* or no, is not mention'd, who could, when assembled in *Parliament*, make *Laws* for, and lay what *Taxes* they pleas'd, not only upon the Ordinary *Freeholders*, but even those of whom they held their *Estates*; which had it been done without their *Consents*, it is not likely they would ever have submitted to it, without any Complaint; and I will give you one of the * Doctor's own Reasons, why the *Tenants in Capite* were at first chosen *Knights* of Shires; for (says he) it is scarce credible, that those Men, the *Tenants in Capite*, which made such a noise for their Liberties, would part with this Main Point, of being personally present, or the Body of them Represented by some of their own Number in every County; and yet all this they tamely yielded to, without any *Opposition* or *Law* made for it, since we find in the Reigns of *Edward the Third*, and *Richard the Second*, Inferior *Tenants* to be chosen *Knights* of the Shire, as well as some of the *Tenants in Capite*, as I have already proved; which had it been (as the Doctor alledges) would no more have been submitted to in
this

this Kingdom, than in *Scotland*, without some *Law* or *Statute* to which those *Tenants* at first gave their *Consents*; and since there is no such *Law* any where to be found, we may very well conclude, that the coming of *Knights* of *Shires* to *Parliament* is of that *Antiquity*, that it is as much beyond the Skill of any in this present Age to tell the *Original* of it, as it was so many Ages ago in the time of *Edward* the *First*, when it was supposed, to be, *time out of mind*.

As for the *Cities* and *Boroughs* of *Scotland*, there is no such great *Resemblance* neither between Them and Ours of *England*; for whereas those hold all immediately of the *King*, and are but *Sixty* in all; it is much otherwise here, for not a *Fourth* part of our *Cities* and *Boroughs* ever held *in Capite*, of the *King*, as I have already proved, against what the Doctor has asserted to the Contrary in another Place; and therefore shall say no more of it here: only cannot but take notice of his great *partiality* to the *Scotish* *Royal-Boroughs* above Ours of *England*; for whereas he says concerning the former, that they were such, *as ever did, and do at this day, send Burgeesses to Parliament*, I suppose the Doctor only meant that they sent them *time out of mind*, not (to use his own words) ever since *Adam*, as he by way of Banter asks Mr. *Petyt* upon the *Commons* using the very same Phrase in their *Petition* to *King Henry* the *Fifth*. So that it seems the Doctor can very well allow the *Scotish* *Cities* and *Boroughs* to have ever had *Representatives* in their *Parliaments* beyond *time of Memory*; but as for those of *England*, they must never have sat there but *Once*, and that too in a time of *Rebellion*, till the 23^d of *Edward* the *First*. But sure, if (as he there asserts) the *Constituent Members* of *Parliament* in both Kingdoms were the same, at least the *Cities*, and *Boroughs*, that held of the *King in Capite*, must have had the like *Priviledge*, or else there was one Order of Men less in our *English*, than in the *Scotish* *Parliaments* at that time, when (as the Doctor says) there were no *Representatives* for *Counties*, and that the *Bishops* and *Great Lords*, as *Tenants in Capite*, made but one *Estate* of *Nobility* with the less *Tenants* of the same Degree, who sat in the same *House* with the *Peers*. But perhaps the Doctor would say, (were he now alive) that *England* being a *Conquer'd Kingdom*, the *King* was *Absolute*, and might model his *Parliament* as He pleas'd: If this were the Reply, I should then refer him (as I do his Followers) to my last *Introduction*, and desire them seriously to think of, and answer it, before they too positively assert that Opinion. And I hope in what I have said on that Subject, I have used that *Candor* and *Integrity* as was requisite for One, who desires nothing more than the *Discovery*, and asserting of the *Truth*, which if I have not done as I ought, I shall own my self beholding to any more able Pen, that shall shew me my *Mistakes*, and will please to give greater *Light* to those *Antient Histories*, and *Records*, that have been made use of by both Parties in this weighty *Controversie*.

The ensuing Records are the Writs which were sent by King Edward the First, to Summon the Knights, Citizens and Burgesles to the Great Council, or Parliament at Shrewsbury, which was held in the eleventh year of his Reign, an Abstract of which you will find in the foregoing Appendix, p. 57, 58. which since they have never been as yet published, I have thought fit here to insert 'em, for the satisfaction of the Curious Reader. I have not thought fit to print any more Records, because you will either find them in the Appendix, or else are there refer'd to, as being already publish'd in Dr. Brady's Treatises, which I have here undertook to Answer.

Rot. Walliæ 11 E. 1. M. 2. dorso.

De Tractatu habendo de David fil' Griffini.

REX dilecto & fideli suo Gilberto de Clare, Comiti Glouc' & Hertford, salutem. Quot fraudum & machinationum generibus lingua Walensium ad instar Vulpium Progenitores nostros Nos & Regnum invaserit a tempore cujus potest hominis memoria recordari, quot Strages Magnatum, Nobilium & aliorum tam Anglicorum quam aliorum Juvenum atque senum, Mulierum & etiam Parvulorum fecerit; quot Castrorum & Maneriorum incendia tam nostrorum quam aliorum Regni hujus posuerit quotiens turbaverit & infecerit Regnum nostrum, Deum vel Hominem non verendo, vix posset lingua Hominis per singula enarrare: Verum qualiter hiis diebus, ut præterita taceamus, Lewelinus filius Griffini Walliæ quondam princeps & David Germanus ejus spreto fidelitatis quam nobis fecerant debito assueta relinquere non volentes Proditionaliter solito Villas nostras subito combusserunt; & pro dolor! quibusdam fidelibus nostris occisis quibusdam combustis & aliis Diris Carceribus mancipatis Castra nostra invadere ausu temerario præsumpserunt fundendo minanter sanguinem innocentem vos ipsi qui nostrorum laborum & Sumptuum participes extitistis propriis oculis conspexistis. Set ille qui post peccatoris conversionem diutius expectavit ipsum induratum præcipitari permittit hujusmodi fraudibus, Machinationibus, Incendiis & Cedibus inhumanis, ut apparet verisimiliter imponere finem volens prius dicto Principe interfecto dictum David qui quasi ultimus superstes de dictorum Proditorum genere habebatur captivatum per homines linguae suæ nostro Carceri destinavit, super quo eidem gratias exsolvimus, sicut ipsum factorem credimus hujus rei.

Et quia vobiscum, qui ut prædiximus, circa expugnationem dictorum fratrum & suorum Complicum dampna, Labores & Sumptus una nobiscum sustinistis Colloquio habito intendimus ordinare quid de David fieri debeat memorato quem susceperamus Exulem nutriveramus Orphanum ditaveramus de propriis terris nostris & sub alarum nostrarum Clamidine foveramus ipsum inter Majores Palatii nostri Collocantes; Vobis mandamus quod in Crastino Sancti Michaelis proximo futuro sitis ad Nos apud Salop Nobiscum super hoc & aliis locuturi; Et hoc nullatenus omittatis. Teste Rege apud Rochel 28. die Junii.

Consigni-

Consimiles Literæ diriguntur Omnibus subscriptis.

Edmundo fratri Regis Comiti Lancastr'.	Nicho' de Cryell. Gilberto Peche.
Rogero le Bigod Com'.	Johan' de Bohun de Suffex.
Norff & Marefcallo Angl'.	Johan' de Wahull.
Johan' de Warennæ Com' Surr'.	Philippo de Kime.
Henrico de Lacy Com' Lincoln.	Johan' de Balliolo.
Will' de Valencia.	Rogero de Moubray.
Hum' de Bohun Com' Heref. & Essex.	Hugoni le Despenfer.
Will' de Bello - Campo Comiti Warr'.	Radulfo Pypard.
Roberto de Veer Com' Oxon'.	Roberto de Everingham.
Gilberto de Umfravill Com de Anegos.	Johanni de Sulleye.
Roberto de Bruce Comiti Car- rek.	Ade de Ganent.
Adæ le Despenfer.	Alexand' de Balliolo de Chile- ham.
Petro de Gouff'.	Will' fil' Warini de Monte-Can- nif.
Reginaldo de Grey.	Will' de Monte-Cannif. de Ed- wardston.
Gilberto de Gaunt.	Ric' fil' Johan'.
Nicholao de Segrave.	Johan' Giffard de Brimesfield.
Mattheo de Lovayne.	Rico' de Cromwell.
Johanni de la Mare.	Johan' de Brus.
Henrico Hufee.	Rico' de Brus.
Rogero de Lancastr'.	Petro de Malo-Lacu.
Nicho' de Meynill.	Roberto de Ros.
Roberto de Tatefhale.	Johan' de Eyvill.
Ricardo de Grey.	Will' Bardolf.
Roberto de Bruce Dom. vallis Anund.	Thomæ de Furnivall.
Galfrido de Nevill.	Will' de Huntingfeld.
Johanni de Stayngreene.	Rado' Basslet de Welledon.
Radulfo de Thorneye.	Johan' de Bosco.
Waltero de Wygeton.	Rado' Basslet de Drayton.
Roberto filio Walteri de Dam- nere.	Theob' de Verdun.
Rogero la Zufche.	Marmed' de Tweng.
Roberto fil' Rogeri.	Will' de Rofs.
Johan' de Wanton.	Will' de Say.
Normanno de Arcy.	Rogero de Somery.
Johan' de Sancto Johan'.	Waltero de Faucumberg.
Will' de Veschy.	Johan' de Bella-Aqua.
Thomæ de Berkell.	Tho' fil' Will' de Cristok.
Rogero de Colevill de Wyham.	Johan' de Vallibus.
Almar' de Sancto Almando.	Thom' de Moleton de Gillesland.
Galfrido de Lucy.	Rob' de Grey.
Johan' filio Galfri' de Sancto Jo- han'.	Regin' de Argenteyn.
	Will' de Ferrar'.
	Gerrardo de Infula.
	Rog' de Leyburn.
	John' de Bello-Campo.

Alano

Alano de Pluckenet.
Hug' Poynz.
Johan' de Cogan.
Ricard' de Albin'.
Henr' de Urtiaco.
Simoni de Monte Acuto.
Olivero Dynant.
Hugoni de Courtney.
Will' Martyn.
Will' de Brus.
Maug' de Sco' Albino.
Nicho' de Monte forti.

Pho' de Albin'.
Rogerio Extraneo.
Edmundo de Mortuo Mari.
Nicho' Baron' de Stafford.
Andr' de Etleye.
Simoni Baffet.
Griffino fil' Ween' Weir.
Petro Corbet.
Johan' Extraneo.
Rob' de Mortuo Mari.
Will' de Botiller de Weme.
Fulconi fil' Warini.

The following Writ to the Mayor and Sheriffs of *London*, being the same word for word with this to the Lords, need not be repeated, only I shall here set down the names of the Cities and Boroughs as they are found upon the Roll, to whom it is most likely the same Writs were directed.

Rot. Walliæ An. 11. Edwardi 1.

REX Majori & Vicecomitibus London. Quot fraudum & Machinationum generibus, &c.

Eodem modo Mandatum est subscriptis.

Majori & Civibus Winton.
Majori & Ballivis Villæ Novi Ca-
stri super Tynam.
Majori & Civibus Ebor'.
Majori & Ballivis Bristol.
Majori & Civibus Exon'.
Majori & Civibus Lincoln'.
Majori & Civibus Cantuar'.
Majori & Civibus Karl'.
Ballivis Norwyic.
Majori & probis hominibus North'.
Ballivis Noting'.
Ball' de Scardeburg'.
Majori & Ball' de Grimesby.

Majori & Ball' de Lenn'.
Ball' de Colecestr'.
Ball' & probis hominibus de
Gernem'.
Majori & probis hominibus Heref'.
Majori & probis hominibus Cestr'.
Ball' & probis hominibus Salop.
Majori & probis hominibus Wy-
gorn.

Note here is a space left on the Roll, large enough to have inserted the rest of the Cities and Boroughs of England, to whom without doubt the like Writs were also directed.

Sub forma prædicta mandatum est universis & singulis Vicecom' per Angliam quod in quolibet Comitatu eligi facerent duos Milites de discretioribus & aptioribus Comitatus illius ad Regem pro Communitate ejusdem Com' venturos. Ita quod sint ad Regem in Crastino Sancti Michaelis prædicto apud Salop cum Rege super hiis & aliis locuturi. Et hoc nullatenus omittant. Teste ut supra.

Item, sub eadem forma mandatum est omnibus, subscriptis quod sint ad Regem ad diem prædictum, cum Rege super hiis & aliis locuturi. Teste ut supra.

Ric' de Holbrok.
Constabular' Castri Bristoll.
Will de Saham, Justice Itinerant,

3. 9. & 12. E. 1.
Rad' de Sandwico, Justice of the
King's Bench, 17 E. 1.
E c Johan'

Johan' de Cobeham, <i>Judge Itinerant</i> , 55 H. III. M. 10. & 2 E. I.	<i>moved and banished</i> , 16 E. I.
<i>Just. K. B.</i> 2 E. I. M. 5. <i>Bar' of the Exchequer</i> , 4 E. I.	Egid' de Berkel.
Johan' de Reigate, <i>Justice of Assise</i> , 4 E. I. <i>Justice Itinerant</i> , 6 & 7 E. I.	Galfro' Aguillon.
Johan' de Luvetot, <i>Bar. of the Exchequer</i> , 3 E. I. <i>Just. Com. Bench</i> , 3 E. I. <i>Just. Itinerant</i> , 8 E. I.	Alano de Walkingham, <i>Justice of Assise</i> , 8 & 10 E. I.
Roger' Loveday, <i>Just. Com. Bench</i> , 4 E. I. <i>Just. Itinerant</i> , 6 E. I.	Tho' de Sto' Vigore, <i>Justice of Assise</i> , 9 E. I.
Rad' de Hengham, <i>Ch. Justice of the K's. Bench</i> , 6 E. I.	Johan' Bek.
Hamoni Hanteym.	Ric' de Boyland, <i>Justice Itinerant</i> , 8 & 13 E. I.
Thom' de Weyland, <i>Chief Justice of the Com. Bench</i> , 6 E. I. re-	Steph' de Pencestre, <i>Justice of the Com. Bench</i> , 12 E. I.
	Nich' de Stapleton, <i>Justice Itinerant</i> , 3 & 16 E. I. <i>Chief Justice of the Kings Bench</i> , 6 E. I.

Here follows a Blank, as is design'd for adding of more Names.

Rot. Parl. 51. E. 3. N. 45.

ITem porce qe de Commune Droit du Roialme de chescun Contee D'engleterre, sont & serront elleuz deux Persones destre a Parlement pur la Commune des dites Contees, save pur Prelatz, Dukes, Contes, Barons, & tieles qe tieignent per Baronie, & q'neux sont & serront somonez per Brief de vener a Parlement; forspris Citees, Burghs qi deviont eslire de eux meismes, tieles qi deviont respondre pur eux, les queux esluz pur les Communes des ditz Contees, averont lour despenses acustumez pur le temps de lour demoere, & dece ount Briefs a Visconte de les lever. Qe please au Roi nostre Seigneur, qe soit ordeine a ceste present Parlement, qe les dites Despenses soient levez de toutz les Communez de dites Contees, sibien deinz Franchises come dehors; forspris de la Franchises des Citees & Burghs, & forspris de ceux qe Veignent issi per Briefs a Parlement per Somons & de lour Tenantz qe tieignent en Bondage.

Responso.

Soit fait come devant ad este use ence Cas.

The same in English.

Also because of *Common Right* of the Realm, there are and should be elected from each County of *England* two Persons to be at the Parliament for the *Commons* of the said Counties; except for Prelats, Dukes, Earls, Barons, and such as hold by *Barony*, and such as are and should be summon'd by Writ to come to Parliament; besides the Cities and Boroughs who ought to elect from among themselves, such as who should answer for them, the which being elected by the *Commons* of the said Counties, shall have the accustomed Expences for the time of their stay, and for this have Writs to the Sheriff to levy them. May it please our Lord the King, that it be ordain'd at this present Parliament, that the said Wages shall be levied of all the *Commons* of the said Counties, as well within *Franchises* as without; except the *Franchises* of Cities

ties and Boroughs, and except those who also come by Writs of Summons to Parliament and their Tenants, whom they hold in Bondage.

Answer.

Let it be done as has been used in the like Case.

ADVERTISEMENT.

SINCE the finishing and printing off of the foregoing Sheets, I have been furnished by my learned and worthy Friend *William Petyt*, late Treasurer of the *Inner-Temple* Esq; and Keeper of her Majesties Records in the Tower of *London*, with this last Record of the 51 of *Edward the Third*, which though not mentioned in the Treatise it self, I desire may be referr'd to p. 68, 69. of the foregoing Appendix, which being a Petition of the Knights of Shires, to the King in Parliament; and by him allow'd, may serve as an additional proof of the constant Claim the *Commons* have made before the King and Lords in Parliament, of their being therein represented of common Right of the Realm, that is by Prescription, as well the Prelates, Dukes, Counts and Barons, is a sufficient Concession of their unquestionable Right.

I desire the Reader would further take notice, that I have not only been obliged to that worthy Person abovementioned, whom, I must own, to have been my Master in all, that I have learnt from Records concerning this important Subject: But, besides what I have already cited out of his Elaborate Treatise concerning the Antiquity of the Commons, must also own my self obliged to him for the two first Records of the 11 E. 1. which he had the good fortune first to discover among the *Rotuli Wallie*; as also for the supplemental Authorities to the Claim of the Town of *St. Albans* from the Writs of Expences above-mentioned, p. 61, 62, 63. By which it plainly appears, that the Claim of that Town of sending Members to Parliament *Time beyond Memory*, was not only allow'd by the King and his Learned Council in Parliament, but also ascertain'd by their sending Burgeses to several Parliaments both before and after that time, who had also their Expences allowed them by Writs directed for that purpose.

I must likewise own as much, concerning that material Record of the 14 & 17. E. 3. concerning the Claim of the Town of *Barnestable* mentioned p. 187. Wherein I desire the Reader to take notice, that it is miscited in the Margin, and instead of *Bundle of Escheats in the Tower*, it should be, *Rot. Pat. 14 E. 3. Part. 1. M. 2. dorso*.

The several Records concerning *St. Albans* and *Barnestable*, I have forbore to give you at length, because I would not be too tedious, (the Work being near an End) but hope they may be one day published among the laborious Collections of the abovesaid Learned Author.

ADDENDA

TO THE

APPENDIX.

PAGE 35. line 28. after, *as at this day understood?* add, as well as they did at that great Council at *Lincoln*, 29 of *Edward I.* when after the *Commons* were risen and gone home, they wrote that famous * Letter to the Pope, in the Names of themselves and the whole *Community* or Body of the Kingdom, of which the Representatives of the *Commons* summoned to this Parliament were then certainly a part, and therefore, &c.

* Vid. the precedent History, p. 145, 146.

Page 135, at the end of the second Paragraph, after these words, *for the same Tenth*, &c. add, And that these two Knights mentioned in the Writ first cited, who were to be chosen and sent by the several Counties, and were to be joined to two others to make up the four, were neither invested by the King, nor those that sent them with the like Power and Authority as the two former, may appear by the Words of the last Writs themselves compar'd with the first, 'which commands the several Sheriffs of Counties to 'cause to be chosen and sent up to *Westminster*, two of the most 'discreet Knights, and the most able for Business, to be present 'at the Time and Place therein express'd, with full Power for 'themselves and the whole *Community* of the said County, to advise and consent for themselves and the said *Community*, to what 'the said Earls and Barons have unanimously ordain'd concerning 'the Premises, so that for defect of such Power, the said Business 'may not remain undone, &c.

But in the second Writ which commands the same Sheriffs to cause two others to be chosen and return'd together with the former, the Power of these latter is not so large as the others, it being only thus, that they should be at *Westminster* at the Day appointed by the Writ, *to hear and do whatsoever We (i. e. the King) should then and there enjoin them*; by which words it plainly appears, that the two former of these Knights, were empower'd by their respective Counties to give their Advice and Consent to what was propos'd to 'em by the Lords, whereas the other two were only to receive some further Instructions and Commands from the King, relating to some other Business, than that which the Lords and great Men had agreed on, so that granting this Assembly to have been a Parliament, (as I suppose it was not) the Doctor cannot at all make out, that either the concurring to the making of Statutes,

Statutes, or their Consent in granting of Money, was intrusted with more than the first two Knights, as will more fully be evident from the Writs themselves; which I have truly transcrib'd from Dr. Brady's Answer to Mr. Petyt's Rights of the Commons asserted.

Page 151.

Rex Vic. Northumbr. salutem; Quia cum Comitibus, Baronibus, & cæteris Magnatibus de Regno nostro super quibusdam negotiis arduis, Nos & idem Regnum Nostrum contingentibus, in crastino Sancti Martini prox. futur. apud Westm. Colloquium habere volumus & tractatum, tibi præcipimus, quod eligi facias duos Milites, de Discretioribus, & ad laborandum Potentioribus de Comitatu predicto & eos ad Nos, usq; Westm. venire facias. Ita quod sint ibi in crastino predicto, cum plena potestate pro se & tota Communitate Comitatus predicti, ad consulend. & consentiend. pro se & Communitate illa, hiis, que Comites, Barones, & Procures, predicti concorditer ordinaverunt in præmissis: Et ita pro defectu potestatis hujusmodi, idem negotium infectum non remaneat, & habeas ibi hoc Breve. Teste Rege apud Westm. 8 die Octobris.

Consimiles Litera singulis Vice-comitibus Angliæ T. ut supra.

Rex Vic. Northumbr. salutem. Cum nuper tibi præciperimus quod duos Milites de Discretioribus & ad laborandum Potentioribus ejusd. Comitatus de consensu ejusdem eligi, & eos ad nos usque Westm. in crast. Sancti Martini prox. futuro, cum plena potestate pro se & tota Communitate ejusdem Com. venire faceres, ad consulend. & consentiend. pro se & Communitate illa, hiis quæ Comites, Barones, & Procures de Regno nostro in dicto crastino ordinabunt: Tibi præcipimus firmiter injungentes, quod præter illos duos Milites eligi facias alios duos Milites legales & ad laborandum Potentes, & eos una cum dictis duobus Militibus usque Westm. venire facias, ita quod in dicto crastino sint ibidem, ad audiend. & faciend. quod eis tunc ibidem plenius injungemus. Et hoc nullo modo omittas. Et habeas ibi hoc breve. Teste Rege apud Westm. 9 die Octobris.

Eodem modo mandatum est singulis Vicecom. Angliæ, mutatis, mutandis. T. ut supra.

And now I have fairly given you these two Records from the Doctors own Copy, I shall leave it to the Reader's Consideration; whether the forced Consequences he has drawn from it are true or not, viz. ' that from the variation of these Writs and other ' Records, it is most evident, that it was from this King's Authority ' this time, that the House of Commons came to be fixed and esta- ' blished in the present constant Form it now is, and hath been in ' for many King's Reigns; and that the King in this Age was not ' altogether confin'd to any certain number of Knights, Citizens, ' or Burgeßes, nor were the several strict Forms and Usages now ' practis'd, ever then thought of, or some legal Niceties and ' Punctilioes now in use, then judged absolutely necessary.

The next Authority the Doctor hath made use of, to prove, that it was antiently in the King's Power to cause the Sheriff to return such Members to Parliament as he suppos'd would best do his Business there; immediately follows in the next Leaf of the said Answer, being a * Writ to the Sheriff of Cumberland.

Id. p. 152.
* Rot. Claus.
28 Ed. I. m. 3.
Dors.

Rex

Rex Vicecom. Cumberl. salutem. Cum nuper pro communi utilitate Populi Regni nostri concesserimus, quod Charta de Foresta in singulis suis Articulis firmiter observaretur, assignando quosdam de fidelibus nostris in singulis Comitatus ejusdem Regni, in quibus Forestæ nostræ existunt ad perambulationem in iisdem Forestis faciend. Ita quod perambulationem illam distinctè & apertè factam ad nos, antequam aliqua executio, vel aliquid aliud, inde fieret, reportarent; & quod Juramentum Nostrum, Jus Coronæ Angliæ, & Rationes & Calumpniæ nostræ, Jus, Rationes, & Calumpniæ aliorum omnium salvæ forent. Nos licet dicti Fideles nostri nunc primo ad nos detulerint, quod fecerint in negotio memorato, quia tamen Prelati, Comites, Barones, & cæteri Magnates dicti Regni in quorum presentia, Nostras & aliorum proponi, & audiri volumus rationes; Et de quorum Concilio in eodem negotio prout alias diximus intendimus operari; Maxime, cum ipsi ad observand. & manutenend. Jura Regni & Coronæ predictæ, una Nobiscum juramenti. Vinculo sint astricti, juxta latus nostrum tunc temporis non fuerunt. Ac pro eo similiter quod illi qui suas Rationes, quatenus illud negotium eos tangit proponere habebant, inde præmuniti non erant, eidem negotio, sine ipsorum Concilio finem imponere non potuimus bono modo. Et quia negotium illud, quantum possumus, cupimus maturari, ita quod per Nos non stet, quin absq; ulterioris dilationis incommodo effectum debitum sortiatur; volentes cum Prælatibus, Comitibus, Baronibus & Magnatibus supradictis, ac aliis de Communitate dicti Regni, super hoc & quibusdam aliis arduis negotiis, Nos & statum Regni predicti tangentibus habere Colloquium & Tractatum, tibi præcipimus, firmiter injungendo, quod venire facias coram nobis ad Parliamentum nostrum apud Lincoln in Octab. Sancti Hillarii prox. futur. duos Milites de Baliva tua; illos videlicet, qui pro Communitate Com. predicti. ad Parliamentum nostrum ultimo præteritum per præceptam nostrum venerunt: Et etiam de qualibet Civitate infra Balivam tuam, eosdem Cives, & de quolibet Burgo, eosdem Burgenses, qui ad prædictum Parliamentum nostrum alias sic venerunt. Et si forte aliquis Militum, Civium, aut Burgensium prædictorum mortuus fuerit, aut infirmus, per quod ad dictos diem & locum venire nequiverint, tunc loco illius mortui, aut infirmi, unum alium idoneum ad hoc eligi, & ad dictum Parliamentum nostrum venire facias. Ita quod Milites, Cives & Burgenses prædicti dictis die & loco modis omnibus intersint, cum plena potestate audiendi & faciendi ea quæ ibidem in præmissis ordinari continget pro communi commodo dicti Regni. Et eisdem Militibus de Communitate Com. predicti, Civibus de Civitatibus, & Burgensibus de Burgis prædictis Rationabiles expensas suas habere facias, in veniendo ad dictum Parliamentum Nostrum, ibidem morando, & etiam redeundo: Tibi insuper præcipimus, sicut prius, quod per totam Balivam tuam, sine dilatione publicè facias proclamari, quod omnes illi qui Terras aut Tenementa habent infra metas Forestæ nostræ in Balivâ tuâ, & qui perambulationem in aliquo calumpniari voluerint, quod sint coram nobis in Parlamento nostro prædicto ostensuri in hac parte Rationes suas & Calumpnias, si quas habent, & habeas ibi nomina prædictorum Militum, Civium & Burgensium, & hoc Breve. T. Rege apud le Rose, 26 die Septembris.

This Record being long, I shall not give my self the trouble to translate it verbatim; but the substance of it is, 'That the
' Sheriffs

‘ Sheriffs should cause to come before the King at his Parliament,
 ‘ to be held at *Lincoln* on the Octaves of *St. Hillary*, two Knights
 ‘ of each County, and two Citizens and two Burgeſſes of each Ci-
 ‘ ty and Borough of *England*, who came to the laſt Parliament,
 ‘ for the finiſhing and ſetling the *Perambulation of Foreſts*, &c.
 ‘ and that if any of the ſaid Knights or Burgeſſes were ſick or dead,
 ‘ Others ſhould be choſen in their rooms, who were likewise to
 ‘ appear at the ſame Parliament.

Yet notwithstanding all this, it is no ſuch extraordinary ſtrain
 of this King’s Prerogative, as the Doctor would infer from it;
 for whoever will conſider the Reaſons, that the King gives in this
 Writ, for ſo doing, *viz.* ‘ that tho’ the ſaid faithful Subjects (the
 ‘ Commons, who had appeared in the laſt Parliament) had then
 ‘ laid before him, what they had done in that Buſineſs, yet ſince
 ‘ the Prelates, Earls, Barons, and other Great Men of the King-
 ‘ dom were not then preſent with him, and being willing to hear
 ‘ his own, as well as their Reaſons by whoſe Advice he intended
 ‘ to act in that Buſineſs; eſpecially, ſince they were oblig’d by
 ‘ their Oaths, together with himſelf, to obſerve the Rights of his
 ‘ Crown and Kingdom; and in like manner that thoſe, whom that
 ‘ Buſineſs did chiefly concern, were not then prepar’d to give in
 ‘ their Reaſons, and without whoſe Advice he could not put an
 ‘ end to that Affair; therefore becauſe he deſir’d to diſpatch it with
 ‘ all ſpeed, and that it might not receive any prejudice by further
 ‘ delays, he had appointed the ſame Knights, Citizens and Burgeſſes
 ‘ to appear before him in the next Parliament, as aboveſaid. All
 which conſider’d, the King had very good reaſon, nay, was in
 a manner oblig’d, to act as he did, ſince the former Parliament
 could do nothing in the Affair for which they were ſummon’d, by
 reaſon of the abſence of a great many of the Lords; ſo that it
 ſeems they were diſſolved *Re infectâ*. And therefore who were
 more fit to appear in the next Parliament, as being beſt acquaint-
 ed with the Buſineſs about which they were ſummon’d, than thoſe
 Knights and Burgeſſes who had been choſen and appear’d at the laſt
 Parliament, wherein this great Buſineſs concerning the *Perambula-
 tion of Foreſts* had been firſt propos’d?

Not that the Sheriff had thereby any power blindly to return
 the ſame Perſons, without a *new Election* in the County-Court; for
 thoſe general Words in the Writ, *Quod venire facias coram Nobis*,
 do not imply any ſuch thing; for beſides, that it is particularly
 directed, that in the room of thoſe, who were ſick or dead,
 other fit Perſons were to be elected, the following Clause in the
 Writ it ſelf ſufficiently ſhews, that all the reſt were to be ſo like-
 wiſe. *Ita quod Milites, Cives & Burgenſes prædicti dictis die &
 loco, modis omnibus interſint, cum plenâ poteſtate audiendi & faciendi,
 ea quæ ibidem in præmiſſis ordinari continget pro communi commodo
 dicti Regni, i. e.* that the aforeſaid Knights, Citizens and Burgeſſes
 ſhould be preſent at the Day and Place aforeſaid, with full Power to
 hear and do thoſe things which ſhall there happen to be ordain’d con-
 cerning the Premiſſes, for the common good of the ſaid Kingdom.

Now how theſe Knights, Citizens and Burgeſſes, could be in-
 du’d with this full Power of acting for thoſe they represented,
 with-

without being again elected, I can by no means understand ; so that the utmost that can be inferr'd from this Writ, is, that the King in a case of necessity then order'd the People to chuse, and the Sheriff to return, as many of the same Members as were alive, or not being sick, were able to serve again ; which whether it could be done now, or not, is not the Question ; since I grant that in that Age which regarded more the Substance than the Circumstances of things, the King might then exercise a higher Prerogative than he can do at this day, when things have been so long settled in a different course : It is sufficient for our purpose, that the *Commons* then had, according to antient Custom, their *Representatives* in this Parliament of the 28th of *Edward the First*, lawfully chosen and empower'd to act for them in the Business about which they were summon'd.

These here printed are all the *Records* that I think fit to trouble the Reader with at this time ; not but that I confess, I have been forced to omit some very material Instruments and Charters which I promised in my History to publish in the *Appendix*, such as is that memorable one recited at large in the Chronicle of *Lanercost*, containing King *Edward the Third's* Release of the Superiority which he or his Ancestors had, or could pretend to over the Kingdom of *Scotland*.

This *Charter*, I confess, I omitted to transcribe, when I took that *Extract* out of it, which is set down in my History ; and I shoud have been glad to have given it at large, since it is not to be found either in the *Close* or *Patent-Rolls* in the *Tower*, having never been enter'd there, or else taken off from the Roll, when King *Edward* revoked that *Charter*, as being procur'd by the Power of the Queen his Mother and her Favourite *Mortimer*, during his Minority ; but the reason why I cannot publish it now, as I promised, is, because the *Cottonian* Library being lock'd up, since the death of the late worthy Owner Sir *John Cotton* Baronet, there is no easie access to it, to take out any Books, or transcribe any thing contained in them. And I desire that the Reader would accept of the same Excuse as to any other Instruments which I have any way mention'd in the precedent History to be publish'd in the foregoing *Appendix*.

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ADVERTISEMENT.

THE Author's not being in Town, when the foregoing Appendix was printed off, makes him place this, that should have been set immediately before, after it, being the Names of the Authors Works, which I have had occasion to make use of, either as Authorities, or else to justify their Opinion who have writ against Dr. Brady, and which I have for brevity sake cited in the Margin by the first Capital Letters of their Names, with those of the Treatises themselves, being these that follow :

Mr. Petyt's Rights of the Commons asserted. P. R. C.

Dr. Brady's Answer to it, printed first in *Octavo*, and afterwards in his Introduction to *English History*, in *Folio*. B. A. P.

The same Author's Answer to Mr. Atwood's *Jani Anglorum Facies Nova*. B. A. F.

Dr. Brady's Glossary, at the end of his Introduction. B. G.

The End of the APPENDIX.

THE

Mutanda & Addenda

To the foregoing

HISTORY.

THESE, had the Author been in Town, shou'd have been printed in their due place immediately after the History, to which they belong, *viz.*

Page 80. line 41. *after these Words*, with France, add,* and there * Chron. de Lanercost. was then granted him a Tenth from the Lords and Communities of Counties, and a sixth part of the Goods of Cities and Boroughs; which is very remarkable, since the Writs of Summons being lost, Dr. Brady will not allow the Citizens and Burgeses to have been summon'd to this Parliament.

Pag. ead. after these Words, instead of, there was a Convocation, &c. read, And there had been a Convocation also † summon'd not long before to be held at the same Place, at the Feast of St. Matthew or 21st of September, wherein the Bishops and Clergy, &c. as it stands † Regist. Johan Romani Archiepisc. Ebor. Printed in Dr. Wake's Appendix to Rights of the Church. p. 21. in the foregoing History. P. 81. l. 1. d. Proctors of the Clergy, and read, the Inferior Clergy, *viz.* the Proctors of the Deans and Chapters, with the Archdeacons, for I am now sufficiently satisfied from the Reverend Doctor Wake's Arguments and Authorities, against Doctor A's Rights of an English Convocation, in his State of the Church, &c. p. 231, to 238. that the Proctors of the Inferior Clergy, as chosen by themselves, were not summon'd to this Parliament, tho' they were to that of the Year following, of which I shall speak further, when I come to it.

P. 89. l. 16. *after the Words*, their Inhabitants, add this: Upon a Review of this Work, after it was printed off, I must own, that upon better consideration of the Writs of * Summons this Year, being the 23^d of Edward I. the Parliament which I have said in the History, p. 88. the last Paragraph, to have met at St. Edmundsbury, was not held there at all this Year; but as appears by those Writs upon the Close-Roll, was summon'd to meet at Westminster on the 1st of August, and by reason of the King's absence was first prorogu'd until the Sunday after Martinmas, and from thence was again prorogu'd until the Sunday before St. Andrews day, or the 30th of November; and to which (as appears by the Writ of Summons to the Archbishop of Canterbury) besides the Proctors of the several Chapters of Cathedrals, those chosen by the Inferior Clergy were now also summon'd; this is confirm'd by some of our † Historians of that time, who expressly tell us, that on the second day of this Parliament the King demanded of the Archbishop an † Annal. Wig. Johan. Eversden. Aid

† Page 88.

* Page 98.

Aid from the Clergy, and He and they having deliberated thereupon, granted him a *Tenth* upon certain Conditions, promising withal a farther Supply the next Year, if in the mean time a Peace were not made with *France*, or at least a Truce in order to a Peace. And therefore this Parliament, which is said in the † History to have been held about this time at *St. Edmundsbury*, did not meet there till the morrow after *All Souls Day*, or 3d of *November*, A. D. 1296. as appears by the Writs of Summons on the Roll, which I have cited in the Margin of the * History under the following Year. Tho', I confess, I cannot tell how to reconcile this with the great Record in the *Tower* concerning the King's Superiority over *Scotland*, which expressly recites *Mackduff's*, Earl of *Fife*, prosecuting his Plea against the King of *Scots*, in the Parliament held at *St. Edmundsbury* in the 23d of *Edward I.* and of the *Scottish* King's sending thither the Abbot of *Aberbrothok* to appear and answer for him; for that Record and those Writs of Summons in the Close Rolls are expressly opposite to each other, unless we may suppose, that the Clerk or Notary, who was imploy'd to draw up all the Transactions between King *Edward* and *John Baliol*, King of *Scots*, some Years after, did by trusting only to his Memory, and not consulting the Records, mistake the Parliament, which was indeed held at *Westminster*, and in which those things relating to the King of *Scots* were transacted, for that which was held at *St. Edmundsbury* the Year following; when it was indeed impossible for any such thing to have happen'd; for the King of *Scots* abovemention'd, being already subdu'd, and having surrender'd up his Kingdom to King *Edward* in *August* this Year, and being now a Prisoner, could not send any Envoys to the Parliament which was held on the 3d of *November* following; or could transact those matters there, which I have related in the precedent History; but in this I am not the only Person that have been mistaken, since Dr. *Brady* having been also misled by the *Scottish* Roll above-cited, has referr'd this Action of *Mackduff's* prosecuting his Appeal, and the King of *Scots* Answer thereunto by his Envoys, to the Parliament of *St. Edmundsbury*, which the Doctor, tho' erroneously, supposes to have been held this Year, and therefore wholly omits the mentioning the Parliament, which was indeed summon'd to, and held at *Westminster* at that time, since that would have been directly to contradict his own Relation.

This I thought fit to advertise the Reader of, since I did not discover it till after the Work was printed, though had I been present when those Sheets should have pass'd my Review, I might then have alter'd them as I have now done, and intend to do, if ever this Work will bear another Edition; in the mean while, I look upon it to be my Duty as a faithful Historian, whenever I am convinced of any material Error or Mistake, to rectify it as soon as I can; that my Readers may not be misled by the seeming Authority even of Records themselves, when they palpably contradict each other, as they do in the time of the Transactions mentioned in the precedent History in the places above-cited.

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